

Protection of Children against Sexual Abuse in the Circle of Trust: Legal Frameworks (Lanzarote Convention Monitoring Questionnaire)

Fields marked with * are mandatory.

Introduction

1. The Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (hereinafter “the Lanzarote Convention” or “the Convention”), which entered into force in July 2010, requires criminalisation of all forms of child sexual abuse. It sets out that states in Europe and beyond shall adopt specific legislation and take measures to prevent sexual violence, to protect child victims and to prosecute perpetrators.

2. The Committee of the Parties to the Convention (also known as the “Lanzarote Committee”), established to monitor whether Parties effectively implement the Convention (Article 1 § 2), decided that:

“1. The monitoring of the implementation of the Convention in the Parties shall be based on a procedure divided by rounds, each round concerning a theme decided by the Lanzarote Committee or any other approach deemed appropriate by the Lanzarote Committee within the scope of the Convention.

2. The Lanzarote Committee will determine the length of each monitoring round in the light of the themes selected and the provisions of the Convention to be monitored.

3. The monitoring round will be initiated by addressing a questionnaire on the implementation of the relevant provisions of the Convention with respect to the selected theme. The Parties shall respond to the questionnaire within the time-limit set by the Lanzarote Committee.”[1]

The notion of the circle of trust

3. In January 2018, the Lanzarote Committee concluded its first monitoring round “Protection of children against sexual abuse in the circle of trust”. The notion of “circle of trust” includes members of the extended family, persons having care-taking functions or exercising control over the child, and any other persons with whom the child has relations, including his/her peers.[2]

The previous and current monitoring rounds on the circle of trust

4. The two implementation reports adopted as a result of the first monitoring round evaluated the frameworks and strategies put in place by the 26 States Parties to the Lanzarote Convention which had ratified it by the time the monitoring round was launched[3]. Since then, the Convention has been ratified by 22 other Parties,[4] and numerous changes have taken place in the subject area due to the development of international standards and national reforms. Furthermore, a child’s circle of trust remains the environment

where the vast majority of sexual abuse occurs.[5] The Committee therefore decided to come back to the subject matter of the first monitoring round in 2023, to both take stock of the situation in the 22 Parties that had not been examined in the first round and to evaluate the follow-up given to the Committee's recommendations by the 26 Parties that had.

5. All of the current 48 Parties will be monitored at the same time to create a momentum around specific aspects of the monitoring theme. To ensure a more accurate reflection of the situation in the Parties and a speedier publication of intermediary results, the monitoring round will be divided into several parts and conducted on the basis of information submitted by the Parties and other stakeholders in response to questionnaires specific for each part.

Involvement of civil society and other relevant stakeholders in the monitoring round

6. In accordance with paragraph 4 of Rule 26 of the Lanzarote Committee's Rules of Procedure, the Secretariat shall seek the views of the representatives of civil society and any other bodies involved in preventing and combating sexual exploitation and sexual abuse of children on the implementation of the Convention by Parties, in particular by asking them to comment on the replies to this questionnaire or by any other means (e.g. by offering the observers and participants in the Lanzarote Committee to submit any relevant information they may have with regard to any Party to the Convention by replying directly to some or all of the questions of this questionnaire). These comments and replies will be transmitted by the Secretariat to the Party(ies) concerned and made public.

Type of questions and elements to be borne in mind when replying

7. Each of the questionnaires of this monitoring round will contain questions derived from the Committee's first monitoring round recommendations and findings, as well as a few new questions based on the Committee's adopted texts and international standards that have emerged in the meantime, including the case-law of the European Court of Human Rights, to gather information for capacity-building purposes. The first part of the monitoring round will assess the legal framework and related procedures with respect to sexual abuse of children in the circle of trust ("Legal frameworks").

8. This specific first questionnaire was adopted by the Lanzarote Committee on 2 June 2023. It is recalled that, in accordance with Rule 26 of the Lanzarote Committee's Rules of Procedure:

"...2. The Secretariat shall address such questionnaires to the Parties through the member in the Lanzarote Committee representing the Party to be monitored, who will act as "contact person".

3. Parties shall submit their replies in one of the official languages of the Council of Europe to the secretariat within the time limit set by the Lanzarote Committee. The replies shall be detailed, answer all questions and contain all relevant reference texts. The replies shall be made public.

5. The Secretariat may request additional information if it appears that the replies are not exhaustive or unclear. Where warranted, with the consent of the Party(ies) concerned and within the limits of budgetary appropriations, the Bureau of the Lanzarote Committee may decide to carry out a visit in the Party(ies) concerned to clarify the situation."

9. In addition, Parties are kindly requested to:

- answer the questions with regard to central, regional and local levels to the extent possible. Federal States may, in respect of their sovereign entities, answer the questions in a summarised way;
- provide, whenever questions/answers refer to it, the relevant text (or a summary) of legislation or other regulations in English or French;

- answer the questions from a gender equality perspective, i.e. specifying, where relevant, whether and how measures for victims and/or offenders take into account gender-specific requirements.

10. The term “national legal framework” used in the questionnaire includes not only laws but also all forms of regulations (decrees, resolutions, administrative directions, instructions, and any other decisions creating legal consequences for more than one individual) and higher courts’ directive rulings.

11. The questions asked concern the legal frameworks pertaining to both online and offline forms of activity. Should your national legal framework distinguish between them, please provide details.

12. As indicated above, some of the questions are included for capacity-building purposes. Therefore, nothing in the wording of these questions should be taken as an indication of a preferred state of affairs or course of action.

13. The questionnaire uses a colour-coded system to help you differentiate questions based on the Lanzarote Committee’s 1st monitoring report’s “invite” recommendations (in blue) and “urge”/ “consider” recommendations (in red). The questions based on the European Court of Human Rights’ case law and the Committee’s adopted texts are coloured red. The questions included for capacity-building purposes are coloured blue.

14. Some of the questions are addressed only to specific Parties found to be not in compliance with a particular requirement of the Convention in the first monitoring round, or to those Parties and to the 22 Parties which had not been evaluated during the first monitoring round. All other questions are meant to be replied to by all Parties.

[1] Rule 24 of the Lanzarote Committee’s [Rules of Procedure](#)

[2] See [1st Implementation Report “Protection of Children against Sexual Abuse in the Circle of Trust: The Framework”](#), p. 12. Examples of the different categories of persons may be found in paragraphs 123-125 of the [Explanatory Report to the Lanzarote Convention](#)

[3] Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Denmark, Finland, France, Greece, Iceland, Italy, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, North Macedonia, Portugal, Romania, San Marino, Serbia, Spain, Türkiye and Ukraine

[4] Andorra, Armenia, Azerbaijan, Cyprus, Czech Republic, Estonia, Georgia, Germany, Hungary, Ireland, Latvia, Liechtenstein, Monaco, Norway, Poland, the Russian Federation, Slovakia, Slovenia, Sweden, Switzerland, Tunisia, United Kingdom

[5] See the [Explanatory Report to the Lanzarote Convention](#), paras. 48 and 123-125

IDENTIFICATION OF THE RESPONDER

* Name of the Party responding or concerned by your response

Finland

* Name of the contact person/coordinator

[Redacted]

* Email address of the contact person/coordinator

[Redacted]

KEY NOTIONS Question 1. Does your national legal framework:

a. [have a reference to “abuse of a recognised position of trust, authority or influence” as a separate sexual offence against children?](#)^[6] If yes, please provide a copy of the relevant provision(s).

[6] 1st Implementation Report “Protection of Children against Sexual Abuse in the Circle of Trust: The Framework” adopted by the Lanzarote Committee on 4 December 15, Recommendation 3.

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (1.a Yes)

The amended provisions on sexual offences in the Criminal Code entered into force on 1 January 2023. The personal integrity of the child is emphasised in the definitions of sexual offences against children. The offences against children are classified as more serious than before. The punishments for them are also more severe. The starting point is that a child cannot consent to a sexual act with an adult.

Sexual intercourse with a child under the age of 16 is, as a rule, rape of a child under the new legislation, when it was previously an abuse offence. Further, children over 16 but under 18 years of age are also better protected.

The Criminal Code contains several provisions referring to abuse of a position of trust/ a close relationship in connection with sexual offences against children.

Sexual acts and sexual intercourse against children younger than sixteen years of age and, in certain situations, younger than eighteen years of age are punishable under chapter 20, sections 12-16 of the Criminal Code.

Section 12 regulates on rape of a child and section 14 regulates on sexual assault of a child. Both sections mention a child’s parents or persons in a position comparable to that of a parent as a special group of perpetrators. If the perpetrator is the child’s parent or a person in a position comparable to that of a parent, and the child is 16-17 years of age, the perpetrator shall be sentenced for rape of a child or sexual assault of a child (chapter 20, section 12, subsection 2 and section 14, subsection 2 of the Criminal Code).

Section 13 regulates on aggravated rape of a child and section 15 regulates on aggravated sexual assault of a child. Both sections state that the child's special trust or dependent position towards the perpetrator is an aggravating factor (the chapter 20, section 13, subsection 1, paragraph 6 and section 15, subsection 1, paragraph 4 of the Criminal Code).

In addition to the aforementioned, the Criminal Code also contains other sections that refer to the abuse of a position of trust in connection with sexual offences against children. Chapter 20, sections 1-4 contain provisions on sexual acts against children under 18 years of age committed through serious abuse of a special position of power.

In addition, chapter 20, section 5, subsection 1, paragraph 1 regulates on sexual abuse of children. The provision applies to all children under the age of 18 and provides special protection to children against sexual abuse by a person in close relationships with them. It provides that a person who, by taking advantage of his or her position, gets a person under 18 years of age who in a school, an institution, an employment relationship or free time activities is subject to the authority or supervision of the perpetrator or in another comparable manner subordinate to the perpetrator, unless an equally or more severe punishment for the act is provided elsewhere in this chapter, be sentenced for sexual abuse to imprisonment for at least four months and at most four years.

In practice, chapter 20, sections 1-5 can normally apply only to acts against children who are at least 16 but younger than 18 years of age, since acts against children who are younger than 16 years of age are punishable as more severe offences under chapter 20, sections 12-16 of the Criminal Code, as referred to above.

According to the government proposal for legislation concerning sexual offences (HE 13/2022 vp), with respect to children under 16 and, in certain circumstances, under 18, sexual acts and sexual intercourse would be separately punishable under sections 12 to 16 of the Criminal Code if section 5 would not apply. Therefore, section 5, subsection 1, subparagraph 1 and 2 would apply mainly when the offence is committed against a 16 or 17 year old.

A translation (subject to possible revisions) of chapter 20 of the Criminal Code is attached as Annex to this reply.

There is also a website (also in English) dedicated to the new legislation on sexual offences at seksuaalirikoslaki.fi.

Here you can upload any file(s) in support of your answer

658b875a-ebae-4c14-9efb-43a9ca0fc177/Criminal_Code_Chapter_20.pdf

b. **[for 22 Parties + Belgium and Luxembourg] establish a separate offence of sexual abuse of children by someone in a recognised position of trust, authority or influence instead of considering the fact that the perpetrator holds that position just as an “aggravating circumstance”?**^[7] If yes, please indicate the specific legal provision.

[7] *Ibid.*, Recommendation 2

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (1.b Yes)

See reply to question 1 a.

Here you can upload any file(s) in support of your answer

c. [list specific categories of adults in contact with children automatically qualifying as holding this position?](#)^[8]

[8] *Ibid*, Recommendation 4. Examples: members of the extended family (including new partners), persons having caretaking functions (including trainers of any kind) or exercising control over the child professionally or on a voluntary basis (including persons who look after children in their leisure-time) and any other person trusted by the child (including other children).

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (1.c Yes)

Chapter 20, sections 12 and 14 of the Criminal Code mention a child's parents or persons in a position comparable to that of a parent as a special group of perpetrators. In addition, chapter 20 section 5 mentions a perpetrator who is in a school, an institution, an employment relationship or free time activities the authority or supervisor of the child or in another comparable manner in relation to the child.

According to the government proposal for legislation concerning sexual offences (HE 13/2022 vp) and with respect to section 13 (aggravated rape of a child) and section 15 (aggravated sexual assault of a child) a person qualifying as holding such a position (the child's special trust or dependent position towards the perpetrator) include the child's parents or other persons who take care of their upbringing. However, a person outside the home may also qualify. A qualifying position can exist if a child is dependent on an adult for instance based on a spiritual commitment for example a religious or other belief or by participating in a recreational activity.

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d. [define the notion of "circle of trust"?](#)^[9]

[9] *Ibid*

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (1.d Yes)

See reply to question 1 c.

In addition, examples of this kind of relationship are given in the government proposal for legislation concerning sexual offences (HE 13/2022 vp). With regard to chapter 20, sections 12-15, the government proposal states as follows:

A position of trust usually includes the parents of the child or other persons responsible for his or her upbringing. A position comparable to a parent may be, for example a stepfather or stepmother who meets the child regularly or a long-term partner of the child's parent even if the parent does not live in the same household as the child. In addition, other person outside the home may also have gained such status. A particularly dependent position may also be based on mental commitment, which may be related, for example, to religious or other beliefs. Sometimes the child may be particularly dependent on an adult because of other circumstances, such as hobbies.

With regard to the chapter 20, section 5, the government proposal states as follows:

The purpose of the provision is to protect young people for example in schools, institutions, employment relationships or leisure time activities from sexual abuse of persons with authority. A precondition is that in these situations the young person is under either the control or supervision of the perpetrator or in another comparable subordinate position to the perpetrator. The strong relationship of control and supervision is represented by, for example, the position of a prisoner in relation to prison personnel, but the provision also applies to the exploitation of a considerably looser supervisory relationship, such as the use of the status of a teacher at school, the status of a coach or instructor in leisure activities and the position of a supervisor in an employment relationship or practical training.

The provision is not intended to apply only to institutions to which a person is obliged to go or to which he or she is assigned under legislation, but is also suitable for the exploitation of a person who is staying in the institution voluntarily. The provision is also proposed to be specifically applicable to leisure activities. This refers to, for example, art, sports, crafts and sports hobbies, organisational activities, language teaching and other similar hobbies, clubs, courses or voluntary activities. A precondition for punishability in leisure activities is that the object of the act is under the control or supervision of the perpetrator or that the perpetrator is in another comparable subordinate position to the perpetrator. Thus, the perpetrator may be older teachers, instructors and coaches.

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VICTIMS' AGE Question 2. Does your national legal framework:

- a. **[for 22 Parties + Italy, Portugal, San Marino, and Türkiye] provide that every child up to 18 years of age is protected against the criminal offence of sexual abuse by someone in a recognised position of trust, authority or influence?**^[10]Please refer to the specific legal provisions.

[10] *Ibid.*, Recommendation 6

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (2.a Yes)

See reply to question 1 a. Chapter 20, section 5 of the Criminal Code applies to all children under the age of 18 and provides special protection to children against sexual abuse by people in close relationships with them.

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b. **[for 22 Parties + North Macedonia and Ukraine]** indicate that the child's legal age for engaging in sexual activities is not relevant in the case of child sexual abuse by someone in a recognised position of trust, authority or influence?^[1] Please provide details.

[1] *Ibid.*, Recommendation 5

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (2.b Yes)

See reply to question 1 a. The Criminal Code sets the age of consent at 16 (chapter 20, section 12, subsection 1). However, the age limit is 18 years if the perpetrator is in a position of trust with the child (chapter 20, section 5).

Here you can upload any file(s) in support of your answer

SCOPE OF OFFENCE Question 3. Does your national legal framework criminalise sexual abuse of children:

a. **where the offender abuses a recognised position of influence?** ^[12] Please refer to the specific legal provisions.

[12] *Ibid.*, Recommendation 1

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (3.a Yes)

See reply to question 1 a.

Here you can upload any file(s) in support of your answer

b. **[for 22 Parties + Belgium]** where the victim is below 18 and emancipated through marriage, and the perpetrator is the victim's spouse or marital partner?^[13] Please refer to the specific legal provisions.

[13] *Ibid.*, Recommendation 7

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (3.b Yes)

The Criminal Code does not specify such situations. Therefore, it has no practical impact whether the child is married or whether the perpetrator is the spouse of the child. However, under section 4 of the Marriage Act, a person under 18 years old shall not marry.

Here you can upload any file(s) in support of your answer

c. **[for 22 Parties + the Republic of Moldova]** where no coercion, force or threat is used by the perpetrator holding the position of trust, authority or influence?^[14] Please refer to the specific legal provisions.

[14] *Ibid.*, Recommendation 8

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (3.c Yes)

Coercion or force or threat is not required in sexual offences against children under the Criminal Code. For example, according to the government proposal for legislation concerning sexual offences (HE 13/2022 vp), the sexual abuse criminalized in section 5 does not require persuasion.

However, the use of violence or threat of violence are aggravating factors (chapter 20, sections 13 and 15 of the Criminal Code).

Here you can upload any file(s) in support of your answer

SCOPE OF OFFENCE Question 4. Does your national legal framework:

a. **criminalise sexual abuse of children for acts other than sexual intercourse and equivalent actions?**^[15]

Please specify which other acts are covered and whether violation of a child's "sexual integrity" specifically

is criminalised.

[15] Ibid., Recommendation 9

- Yes
- No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (4.a Yes)

Chapter 20, section 14 of the Criminal Code provides as follows: “A person who, by touching or otherwise, performs such a sexual act other than that referred to in section 12 on a child under 16 years of age that is conducive to causing damage to the child’s development, or gets the child to engage in such an act, shall be sentenced for sexual assault of a child to imprisonment for at least four months and at most six years. A person who performs an act referred to in subsection 1 on a child who has reached the age of 16 years but not the age of 18 years shall also be sentenced for sexual assault of a child, if the perpetrator is the child’s parent or in a position comparable to that of a parent.”

The government proposal for legislation concerning sexual offences (HE 13/2022 vp) specifies in more detail the sexual acts referred to in this section. The scope of sexual acts must be considered broad and the act does not necessarily have to impinge on the physical integrity of the child. The following acts are mentioned as examples of a sexual act:

- Enticing the child to see masturbation, intercourse or pornographic images or videos,
- Showing pornographic images to the child,
- Telling and discussing sexually charged events to the child,
- Sending sexual text messages, emails, letters or other messages to the child,
- Requesting or making a child act in a sexually coloured manner (for example, make the child wear revealing clothes or undress naked, have the child masturbate or urinate on the perpetrator, ask the child to draw genitals depicting images, photographing a naked child, asking the child to appear in a sexual image, taking such an image of himself or herself, or sending such an image to the perpetrator),
- Showing the offender’s genital organs to the child,
- Presentation of gestures describing self-satisfaction or sexual intercourse,
- Kissing a child in a sexual manner,
- Hugging, lifting, embracing, bathing and taking clothes off, as well as being naked within the family circle, when they have taken place in connection with, for example, sexual touching of the child’s genital organs or other sexual act.

In addition, as mentioned in the Government’s reply to question 1 a, chapter 20, sections 3-5 of the Criminal Code apply to sexual acts against children under 18 years of age. The scope of application of these sections also covers acts other than sexual intercourse or equivalent actions.

According chapter 20, section 23 of the Criminal Code, sexual act means an act which, taking into consideration the perpetrator, the person at whom the act was directed and the circumstances of commission, is sexually significant.

Save the Children Finland refers to the emergence of self-generated child sexual abuse material in Finland (https://pelastakaalapset.s3.eu-west-1.amazonaws.com/main/2023/03/22102225/nettivilhje-vuosiraportti-2022_en-1.pdf) and elsewhere and states that the definition of intercourse does not include situations where the child penetrates themselves while being directed, coerced or manipulated by an adult perpetrator. The child does not always understand what is taking place, as the adult can mask the sexual abuse as a game or a challenge, in addition to possibly coercing or blackmailing the child. Save the Children refers also to the national Child Victim Survey (<http://urn.fi/URN:ISBN:978-952-00-7158-5>) and to the Finnish School Health Promotion study where more children have reported having experienced sexual abuse than before.

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b. **[for 22 Parties + Bulgaria] ensure equal sanctions for sexual abuse committed within a heterosexual and homosexual sexual activity?**^[16] Please refer to the specific legal provisions.

[16] *Ibid.*, Recommendation 11

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (4.b Yes)

The Criminal Code does not distinguish between sanctions for sexual abuse committed in heterosexual and homosexual activities. In other words, the punishments for sexual offences against children are not affected by the gender or sexual orientation of the victim or the perpetrator.

Here you can upload any file(s) in support of your answer

c. **[for 22 Parties + Albania and the Republic of Moldova] make any distinct reference to “homosexual activities” in the description of criminal offences involving sexual abuse and sexual exploitation of children?**^[17] Please refer to the specific legal provisions.

[17] *Ibid.*, Recommendation 12

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (4.c Yes)

See reply to question 4 b. The descriptions of sexual offences against children do not distinguish between heterosexual or homosexual activity.

Here you can upload any file(s) in support of your answer

EX OFFICIO PROSECUTION Question 5. Does your national legal framework:

a. **contain a requirement to investigate and prosecute sexual abuse and exploitation of children by someone in a recognised position of trust, authority or influence without a complaint from the victim or his /her legal representative?** ^[18] Please refer to the specific legal provisions.

[18] *Ibid.*, Recommendation 57

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (5.a Yes)

Yes. All sexual offences against persons under the age of 18 are subject to public prosecution. This means that they must be investigated and prosecuted regardless of whether the victim has made a report or withdrawn their statement. This applies regardless of the relationship between the child and the alleged offender.

The duty to investigate is based on Criminal Investigation Act (805/2011) whereby the criminal investigation authority shall conduct an investigation when there is reason to suspect that an offence has been committed (chapter 3, section 3). The duty to prosecute is based on Criminal Procedure Act (689/1997) whereby the prosecutor shall bring a charge for a suspected offence if he or she deems probable grounds exist to support the guilt of the suspect (chapter 1, section 6). These provisions are not specific to sexual offences and therefore apply to all kinds of criminal matters. However, not all of the offences in Criminal Code are subject to public prosecution.

Here you can upload any file(s) in support of your answer

b. **contain a requirement to continue the proceedings even if the victim has withdrawn his/her complaint /statements?**^[19] Please refer to the specific legal provision(s).

[19] *Ibid*

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (5.b Yes)

Yes. See reply to question 5 a.

Here you can upload any file(s) in support of your answer

c. **[for Portugal] in case of a sexual act committed by an adult in respect of a child aged 14-16 years old which does not result in the child's death or suicide, require the child victim to lodge a complaint as a prerequisite for investigation and prosecution?**^[20]

[20] *Ibid.*, Recommendation 56

- Yes
 No

Here you can upload any file(s) in support of your answer

MEASURES IN RESPECT OF CHILDREN WHO SEXUALLY OFFEND AND CHILDREN DISPLAYING RISKY AND HARMFUL SEXUAL BEHAVIOUR Question 6. Does your national legal framework:

a. provide for non-criminal measures in respect of the children below the age of criminal responsibility who commit acts of sexual abuse towards other children?^[21]Please provide details.

[21] Inspired by *X and Others v. Bulgaria* (no. 22457/16), 2 February 2021 and *A.P. v. the Republic of Moldova* (no. 41086/12), 26 October 2021

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (6.a Yes)

According to chapter 3, section 4 of the Criminal Code, the prerequisites for criminal liability are that the perpetrator had reached the age of fifteen years at the time of the act and has criminal capacity. Thus, if the offence is committed by a person under 15 years of age, the perpetrator cannot be held criminally liable. However, a child welfare notification can be filed of an offender under 15 years of age, and the offender's offence and situation are dealt with by social welfare authorities.

Moreover, the absence of criminal liability does not exempt a person from liability for damages. Although an offender under 15 years of age cannot be held criminally liable, the offender is still liable for damages to the victim. According to chapter 2, section 2 of the Tort Liability Act (412/1974), if the injury or damage has been caused by a person under eighteen years of age, he/she shall be liable for damages to an amount that is deemed reasonable in view of his/her age and maturity, the nature of the act, the financial status of the person causing the injury or damage and the person suffering the same, and the other circumstances.

Furthermore, according to chapter 3, section 5 of the Criminal Investigation Act, a criminal investigation shall be conducted as necessary in respect of a criminal act of which a person under the age of 15 years is suspected on the request of the injured party in order to recover lost property or to enforce his or her right to compensation for the loss, in order to clarify the prerequisites for forfeiture; or in order to clarify the need for child welfare measures directed against the suspect or another need to clarify an interest of the suspect.

In addition, according to section 26 of the child Welfare Act, after a child welfare matter has been initiated, a social worker or other child welfare worker must immediately assess the child's possible urgent need for child welfare. The need for services and support measures under the child Welfare Act is assessed by the social worker. The social worker assesses the child's growing conditions and the possibilities of the guardians or other persons responsible for the child's care and upbringing to take care of the child. The assessment shall be carried out to the extent required by the circumstances of the case in question. In order to carry out the assessment, a social worker may, if necessary, contact persons close to the child and various partners and experts as provided in section 41 of the Social Welfare Act. The provisions of section 36 of the Social Welfare Act shall be observed when assessing the need for services. The assessment shall be started without delay and completed without undue delay.

Here you can upload any file(s) in support of your answer

b. differentiate between adults and children above the age of criminal responsibility in the application of sanctions for offences involving sexual abuse of children?^[22] Please refer to the specific legal provision(s) and specify the age of criminal responsibility in your legislation.

[22] Question included for capacity-building purposes

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (6.b Yes)

According to the chapter 3, section 4 of the Criminal Code, the prerequisites for criminal liability are that the perpetrator had reached the age of fifteen years at the time of the act and has criminal capacity. In addition, a person under 18 years of age is considered a minor in court proceedings.

According to chapter 6, section 8 of the Criminal Code, a reduced penal scale shall be applied in determining the punishment, if the perpetrator was under 18 years of age upon committing the offence. When determining the punishment, at most three quarters of the maximum amount of imprisonment or fine provided for the offence and at least the minimum amount of the type of punishment provided for the offence may be imposed on the perpetrator.

In addition, according to chapter 6, section 10 a of the Criminal code, a person under 18 years of age may also be sentenced to a juvenile punishment instead of imprisonment.

Provisions mentioned above apply to sexual offences against children.

Furthermore, according chapter 6, section 12, a court may waive punishment if the offender has committed the offence below the age of 18 years and the act is deemed to be the result of lack of understanding or of imprudence.

Moreover, according to chapter 3, section 10 of the Criminal Investigation Act, the public prosecutor may, on the request of the head investigator, decide that no criminal investigation is to be conducted or that the criminal investigation shall be discontinued, if he or she, on the basis of chapter 1, section 7 or 8 of the Criminal Procedure Act or on the basis of another corresponding provision, should waive prosecution and if there is no important public or private interest that would require the bringing of charges.

According to chapter 1, section 7 of the Criminal Procedure, the prosecutor may waive prosecution if the suspect had not reached the age of eighteen at the time of the commission of the suspected offence and no sentence more severe than a fine or imprisonment for at most six months is to be anticipated for this offence and it is to be deemed to be more the result of lack of understanding or thoughtlessness than of heedlessness of the prohibitions and commands of the law.

Here you can upload any file(s) in support of your answer

CHILD VICTIMS' RIGHT TO PROTECTION AND PARENTAL RIGHTS

Question 7. Does your national legal framework:

a. provide for the possibility for child protection professionals to conduct exploratory interviews of a child without informing in advance the parents/legal guardians in cases in which there is a reasonable suspicion of sexual abuse by someone in a recognised position of trust, authority or influence and there is a reason to believe that parents/legal guardians may prevent a child from disclosing sexual abuse?^[23] Please provide details.

[23] 1st Implementation Report "Protection of Children against Sexual Abuse in the Circle of Trust: The Framework", Recommendation 26

- Yes
- No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (7.a Yes)

Advance notice of the questioning shall be made to the legal representatives of the minor (a person responsible for the care and custody of the child, a guardian or other legal representative) as being entitled to be present and at least one of them shall be reserved an opportunity to be present at the questioning (chapter 7, section 15 of the Criminal Investigation Act).

A child under 18 years is legally incompetent, but after reaching the age of 15 years, together with the person responsible for his or her care and custody or his or her legal representative, exercises his or her right to be heard independently in a matter concerning his or her person. In the case of a child under 15 years, the right to be heard shall be exercised by the person responsible for his or her care and custody or his or her other legal representative (chapter 12, section 1 of the Code of Judicial Procedure). The court shall appoint a trustee in the criminal investigation for a party under the age of 18 years if there is justified reason to assume that the person having care and custody of the child, the trustee or other legal representative cannot objectively ensure the interests of the party in the matter and the appointment of a trustee is not evidently unnecessary (chapter 4, section 8 of the Criminal Investigation Act). E.g., if a parent or his or her spouse or cohabiting partner is suspected of an offence against a child, neither of the parents may exercise the child's right to be heard or act as the child's representative in the criminal case in question.

The parents of a child or other persons who have been awarded custody of a child are the custodians of the child (chapter 1, section 3 of the Act on Child Custody and Right of Access (361/1983)). The custodian represents the child in matters concerning his or her person, unless otherwise provided by law (chapter 1, section 4). In a matter concerning the appointment of a guardian for a minor, the minor themselves, provided that they have reached the age of 15 years, and the custodian of the minor shall be given an opportunity to be heard (chapter 8, section 73 of the Guardianship Service Act (442/1999)). Thus, if a court hears the parents, the parents also become aware of the suspected offence. However, the court may issue an interim order. If the matter cannot be delayed, the order may be issued without hearing the person whose interests are to be overseen and the other persons referred to in section 73. The interim order is in force until the court issues a decision in the matter, unless the order is revoked or amended before that (chapter 8, section 79).

Thus, under section 79 of the Guardianship Services Act, a court may issue an interim order concerning a temporary guardian without hearing the parents if the order concerning the temporary guardian is based on a matter that cannot delay the issue of the order. The consideration of the hearing has been left to the court. If a temporary guardian is appointed to a child without hearing the parents, the child could also be interviewed without informing the parents in advance about the initiation of the criminal investigation.

In certain situations, the Child Welfare Act (417/2007) enables child welfare workers to hear the child also

without prior information or permission from the parent/custodian. The reasons for meeting and hearing the child without prior information or permission from the parent/custodian must be entered in the child's documents. Hearing the child without the permission of the parents/guardians must be in the best interests of the child (section 29). An administrative court may authorize an examination of the child by a physician or other expert if the examination is essential for investigating the need for child welfare but the custodian forbids an examination (section 28).

When there is a justified suspicion of sexual abuse by a parent or another person close to the child and possibly a person close to the child's parents, informing the parents on meeting the child in advance or asking the parents' permission for the meeting can be considered to be against the child's best interests.

The hearing of the child can take place in the forensic psychiatry or psychology units of children and young people (Barnahus-units), at the request for executive assistance made by the police. Their operation is governed by the Act on the organisation of social and health care (612/2021). The police, prosecution, social services, and health care work together in a multidisciplinary way.

According to Central Union for Child Welfare recognizing violence against children and assistance requires systematic accumulation of special skills. Competence varies in different parts of the country. The Union refers to the CRC's concluding observations concerning Finland relating to the insufficient resources allocated to social services when addressing cases of child abuse and domestic violence (22 (e)).

Here you can upload any file(s) in support of your answer

b. [provide for the possibility for child protection professionals to conduct exploratory interviews of a child without acquiring the parents/legal guardians' prior consent in cases in which there is a reasonable suspicion of sexual abuse by someone in a recognised position of trust, authority or influence and there is a reason to believe that parents/legal guardians may prevent a child from disclosing sexual abuse?](#)^[24] Please provide details.

[24] *Ibid*

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (7.b Yes)

See reply to question 7 a.

Additionally, if there is reason to assume that a person may provide clarification regarding an offence or if his or her presence in the performance of a criminal investigation measure is otherwise necessary in order to clarify the offence, he or she is obliged when summoned to attend the criminal investigation in the closest appropriate criminal investigation office or to another corresponding criminal investigation office. The summons shall indicate the offence under investigation and the position of the person being summoned in the criminal investigation (chapter 6, section 1 of the Criminal Investigation Act). According to the travaux préparatoires, as a rule, the provisions of chapter 6 of the Criminal Investigation Act apply to persons of all ages who are heard in a criminal investigation (government proposal HE 222/2010 vp). Thus, the consent of the parents is not a prerequisite for interviewing a child. However, as mentioned in the reply to question 7 a,

an advance notice of the questioning shall be made to the legal representatives of the minor.

Moreover, in a criminal investigation carried out in accordance with the Criminal Investigation Act, a child is interviewed either by a trained police officer or, at the request of the police, by an expert. According to chapter 4, section 7 of the Criminal Investigation Act, in the criminal investigation, a person under the age of 18 years shall be treated in the manner required by his or her age and level of development. Particular care shall be taken so that criminal investigation measures do not cause him or her unnecessary inconvenience at school, at work or in other environments important to him or her. Moreover, to the extent possible, investigation measures directed at persons under the age of 18 years shall be assigned to investigators particularly trained in this function. When necessary, the criminal investigation authority shall consult with a physician or other expert on whether investigation measures may be directed at a person under the age of 18 years.

According to chapter 4, section 8 of the Criminal Investigation Act, the court shall appoint a trustee in the criminal investigation for a party under the age of 18 years if there is justified reason to assume that the person having care and custody of the child, the trustee or other legal representative cannot objectively ensure the interests of the party in the matter and the appointment of a trustee is not evidently unnecessary. The head investigator shall if necessary submit an application to the court for the appointment of a trustee. The application may be submitted also by the public prosecutor, wellbeing county or the guardianship authority referred to in section 84 of the Guardianship Service Act. The appointment as trustee is in force until the conclusion of the criminal proceedings following the criminal investigation in respect of which the appointment has been made. The costs incurred in the appointment of the trustee and the fee and expenses of the trustee are paid from State funds. In other respects, the provisions of the Social Welfare Act apply as appropriate.

Here you can upload any file(s) in support of your answer

c. allow for the removal of the suspected perpetrator from the family environment in case of reasonable suspicion of sexual abuse of a child living in the same environment together with the suspect?^[25] Please provide details.

[25] This question results from the Committee's reasoning that "before resorting to the removal of the victim, the removal of the perpetrator should be preferred" (page 28 of the 1st implementation report).

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (7.c Yes)

If the person who feels threatened and the person against whom the restraining order is applied for live permanently in the same residence, a restraining order may be imposed to prevent an offence against life, health or liberty or a threat of such an offence (inside-the-family restraining order) (chapter 1, section 1 of the Act on Restraining Orders (898/1998)). An inside-the-family restraining order may be imposed, if the person against whom the restraining order is applied for, judged by the threats he or she has made, his or her previous offences or other behaviour is likely to commit an offence against the life, health or liberty of the person who feels threatened, and the imposition of a restraining order is not unreasonable with regard to the severity of the impending offence, the circumstances of the persons living in the same household and other

facts presented in the case (chapter 1, section 2 of the Act on Restraining Orders). Therefore, when there is reasonable suspicion of sexual abuse of a child and the suspected perpetrator lives in the same household, it is possible to impose an inside-the-family restraining order. A restraining order may be also imposed as temporary. A temporary restraining order is imposed by an official with powers of arrest or by a court (chapter 3, section 11 of the Act on Restraining Orders). It is stated in the legislative drafting material that this applies also to the inside-the-family restraining order. Principally, the aim is that an inside-the-family restraining order would be imposed first by a temporary decision by an official with powers of arrest belonging to the police organisation, and later the matter would be considered by a court (government proposal HE 144/2003 vp).

A person on whom an inside-the-family restraining order has been imposed must leave the residence where he or she and the person protected permanently live together, and he or she may not return there (chapter 1, section 3 of the Act on Restraining Orders). An inside-the-family restraining order may be imposed for at most three months. A restraining order may be renewed. When an inside-the-family restraining order is renewed, it may be imposed for at most three months (chapter 2, section 7 of the Act on Restraining Orders).

The Act on Restraining Orders has been amended by Act 202/2023, which entered into force on 1 October 2023. According to the amended chapter 3, section 11, subsection 2, the police that may order a temporary restraining order ex officio, if there is an evident risk to life or health of the endangered person. Chapter 3, section 11, subsection 2 included previously a more specific precondition according to which the police could issue an interim restraining order, if it has become apparent that the protected person cannot ask for a restraining order because of fear towards the person against whom a restraining order is issued or for any other reason that she/he cannot apply for the restraining order herself/himself.

If the interim restraining order is given against a family member, the court hearing needs to be held within one week of the decision made by the police (chapter 3, section 12).

In addition to restraining orders, shelter services can help to protect family members, as well. The Child Welfare Act enables the placement of a child outside the home if the conditions laid down in the Child Welfare Act are met, either alone or with one of his or her parents, for example. For example, according to section 38 of Child Welfare Act, the child can be protected, if necessary, through urgent placement in another residential environment separate from the suspected perpetrator. Urgent placement of a child is always the last resort in protecting the child. The duration of emergency placement is determined in section 38 of the Child Welfare Act.

The Child Welfare Act also enables certain restrictions on communication.

The Child Welfare Act also enables certain restrictions on communication.

Here you can upload any file(s) in support of your answer

d. **consider the removal of the child victim from the family environment as a last resort procedure? Is that procedure clearly defined, and does it set out conditions for and duration of the removal?**^[26] Please provide details.

[26] *Ibid.*, Recommendation 27

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (7.d Yes)

Children must be taken into the care of the wellbeing services county and substitute care must be provided for them if their health or development is seriously endangered by lack of care or other circumstances in which they are being brought up. This may include cases where the child has been sexually abused in their family environment.

It can only be resorted to if 1) the measures of open care would not be suitable or possible or if the measures have proved to be insufficient, 2) substitute care is estimated to be in the child's interests in accordance with section 4 (chapter 9, section 40 of the Child Welfare Act). When assessing the interests of the child, consideration must be given to the extent to which the alternative measures and solutions safeguard for the child e.g. balanced development and wellbeing, and close and continuing human relationships; the opportunity to be given understanding and affection, as well as supervision and care that accord with the child's age and level of development; and a safe environment in which to grow up, and physical and emotional freedom (chapter 1, section 4, subsection 2).

Before making a decision on taking a child into care and substitute care the child's own views must be ascertained and an opportunity must be reserved for the child to be heard (chapter 9, section 42). Decisions on taking a child into care and substitute care are made by a leading social welfare officeholder appointed by the wellbeing services county or another social worker appointed by the leading officeholder after the social worker responsible for the child's affairs has prepared the case if the custodian or a child of 12 years or more does not oppose the taking into care and related placement into substitute care. If the child's custodian or a child of 12 years or more opposes the taking into care or related placement into substitute care, the case is decided by an administrative court on application by a leading social welfare officeholder appointed by the wellbeing services county or another social worker appointed by the leading officeholder after the social worker responsible for the child's affairs has prepared the case (chapter 9, section 43).

Taking into care is valid indefinitely. When a child is taken into care the duration of this measure lasts therefore for as long as it is necessary for the wellbeing of the child. When the need for care and substitute care no longer exists, the municipal officeholder must make a decision on terminating the care after the social worker responsible for the child's affairs has prepared the case. Care must not be terminated even if the conditions for taking a child into care no longer exist if termination is manifestly not in the interests of the child. When a child's interests are being considered in a case concerning termination of care, in addition to what is said in section 4, subsection 2, the following must be taken into account: the duration of substitute care, the quality of the affection between the child and the party providing substitute care, interaction between the child and the parents and the child's views. (chapter 9, section 47).

A child may be placed outside the home urgently in accordance with section 38 of the Child Welfare Act if the child is in immediate danger for reasons referred to in section 40. If a child needs urgent help for a reason referred to in section 40, supportive measures in open care, such as placement in open care, may be arranged urgently provided that the supportive measures are suitable, possible and sufficient for providing care in accordance with the best interests of the child. According to section 37, family or institutional care may be arranged as support in open care for a child together with a parent, custodian or other person responsible for the child's care and upbringing in the form of care in which the need for support is assessed or in the form of rehabilitative care. If a child cannot be placed, in accordance with the best interests of the child, together with his or her parents, custodians or other person responsible for his or her care and upbringing, the child may also be placed alone for a short period of time as a supportive measure in open care. The placement requires the consent of the person who has custody of the child and the child who has reached the age of 12 years. A precondition for the placement is that the placement is necessary: 1) to assess the child's need for support; 2) for the rehabilitation of the child; or 3) arranging child care on a

temporary basis due to the illness of the custodian or another person responsible for the care and upbringing of the child or for another corresponding reason.

Here you can upload any file(s) in support of your answer

e. [ensure that the different agencies involved in the coordination and collaboration concerning child sexual abuse are allowed to share personal information as appropriate?](#)^[27] Please provide details.

[27] *Ibid.*, Recommendation 25

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (7.e Yes)

An authority may provide access to a secret official document, if there is a specific provision on such access or on the right of such access in an act or the person whose interests are protected by the secrecy provision consents to the access (chapter 7, section 26 of the Act on the Openness of Government Activities (621 /1999)).

Section 4 of the Act on Organising the Investigation of a Sexual and Assault Offence against a Child (1009 /2008) enables authorities to share personal information as appropriate notwithstanding secrecy provisions. The research unit has the right to obtain from the police, prosecutors and courts the documents pertaining to the case in question insofar as they are necessary for conducting the investigation. State and municipal authorities and other bodies governed by public law, corporations and units engaged in health or medical care activities and health care professionals are obliged to provide, free of charge the information and reports on the child in their possession that are necessary for carrying out the research referred to in this Act. The research unit may disclose information to the health care unit responsible for the child's mental care after the examination, if this is necessary.

A physician or other health care professional may not testify regarding a sensitive matter relating to the health of a person or his or her family or regarding another personal or family secret that he or she has learned on the basis of his or her position or function unless the person in whose benefit the secrecy obligation has been provided consents to such testimony. The court may oblige a person to testify if the prosecutor has brought charges for an offence for which the maximum sentence is imprisonment for at least six years (Code of Judicial Procedure, Chapter 17, section 14). A physician is also entitled to testify in a criminal investigation without the consent of the person when investigating the aggravated offence in question (Criminal Investigation Act, Chapter 7, section 8). A document may also be confiscated when a physician can be obligated to testify and the aggravated offence in question is under investigation (Coercive Measures Act, Chapter 7, section 3). In more lenient cases, the information cannot be disclosed, if a consent is not obtained. The obligation to notify the police of all suspicions of sexual offences against a child must be taken into account.

The police have the right, notwithstanding the obligation of secrecy, to obtain free of charge from a public authority or a body assigned to perform a public function any information and documents necessary to carry out a police duty, unless disclosing such information or documents to the police or using such information as evidence is expressly prohibited or restricted by law (chapter 4, section 2 of the Police Act (872/2011)).

Currently the Act on the Status and Rights of Social Welfare Clients contains provisions concerning the social welfare services authorities' rights of access to information and obligations to disclose information to other authorities (chapter 3, sections 16, 17, 18; chapter 4, section 20). A new Act on the Processing of Client Data in Healthcare and Social Welfare enters into force on 1 January 2024.

According to the new Act, if a permission to disclose client data referred to in section 55 cannot be obtained due to reasons defined by the Act, the social welfare service provider may, notwithstanding the secrecy obligation, disclose information from the document that is necessary for investigating the client's need for care, welfare or education or for arranging or implementing care, welfare or education when it is in the best interests of the child or the information is provided to safeguard the essential interests and rights of the client and the client himself or herself is not in a position to assess the significance of the matter. Upon request, a social welfare service provider shall also, regardless of the consent of the client or his or her legal representative, disclose a secret document to the police, prosecution authority and court if this is necessary for investigating an offence of which the failure to report is punishable under Chapter 15, section 10 of the Criminal Code, or for which the maximum penalty is imprisonment for at least four years. A social welfare service provider may also, on its own initiative, disclose a secret document if an offence referred to in subsection 2 is suspected or if someone is suspected of having committed an offence that is lesser than that, if the social welfare service provider deems it necessary for the best interests of the child or for a very important public or private interest. If a social worker becomes aware of a suspicion of abuse against a child, other authorities, including the police, at the request of the social worker, must provide essential information related to the investigation of the matter.

Here you can upload any file(s) in support of your answer

CHILD VICTIMS' RIGHTS TO PROTECTION AND PARENTAL RIGHTS

Question 8. Does your national legal framework clearly distinguish:

- cases of suspension of parental rights as a provisional measure to protect the child before a court decision on the conviction of the concerned parent is taken, and
- cases of withdrawal of parental rights once the court has convicted the said parent?^[28] Please provide details.

[28] *Ibid.*, Recommendation 32

- Yes
 No

Please provide information in support of your answer, if possible by referring to specific legal provisions and their exact wording (8 Yes)

A client relationship with the child welfare authorities does not remove parental rights. In accordance with section 45 of the child Welfare Act, when a child has been taken into care, the wellbeing services county has the right, in order to implement the purpose of taking the child into care, to decide on the child's whereabouts and care, upbringing, supervision and other care as well as the education and healthcare necessary for their implementation.

An officeholder determined in accordance with section 13, subsection 2 and 3 of the child Welfare Act or a

social worker referred to in subsection 1 of the same section or the director of an institution decides on restricting contact between a child taken into care and his or her parents and other persons close to the child as provided in sections 62 and 63. In situations referred to in section 13 subsection 2 and 3 of the Child Welfare Act, cooperation with the child, the parent and the custodian shall be sought and the best interests of the child shall be taken into account first and foremost.

According to section 83 of the Act, when a case concerning the taking into custody or foster care of a child is pending before an administrative court or the Supreme Administrative Court, the court hearing the case may, on its own motion or at the request of the child or his or her parents or guardian, issue a temporary order as to the whereabouts of the child and how the care and upbringing of the child is to be organised during the court proceedings. The order may be made without the parties being heard if the case cannot be delayed.

According to section 46, subsection 1, subparagraph 1, of the Child Welfare Act, during custody, the parents may agree on the custody and visiting rights of the child. The confirmation of the agreement is provided for in the Act on Custody and Access to Children. During custody, the general court may decide on the custody and right of access or guardianship of the child in accordance with the provisions of the said Act or the Act on Guardianship.

According to section 5c, subsection 1, paragraph 1 of the Act on Custody and Right of Access to a Child, a guardian may be appointed to represent the child instead of the guardian in matters concerning the child's person if: 1) the guardian is prevented from representing the child due to incapacity, illness or any other reason; and 2) the appointment of a guardian is necessary to clarify the matter or otherwise safeguard the child's best interests. According to section 5 b of the Act, a guardian may not represent a child in a case against him or her, someone he or she represents or another guardian of the child. Nor may a guardian represent a child if the interests of the guardian and the child might otherwise be in conflict.

Here you can upload any file(s) in support of your answer

CHILD VICTIMS' RIGHTS TO PROTECTION AND PARENTAL RIGHTS

Question 9. Does your national legal framework provide for:

a. [automatic suspension of parental, visitation, and child hosting rights of parents against whom criminal proceedings for sexual abuse of own child are pending](#)?^[29] Please provide details.

[29] Question included for capacity-building purposes, i.e. to map whether there are Parties that have a particular legal framework in such cases.

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (9.a Yes)

See reply to question 8.

Here you can upload any file(s) in support of your answer

b. [automatic withdrawal of parental rights of parents convicted of sexual abuse of own child](#)?^[30] Please provide details.

[30] *Ibid*

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (9.b Yes)

See reply to question 8.

Here you can upload any file(s) in support of your answer

GUARANTEES OF PROTECTION FOR PERSONS REPORTING SUSPECTED OFFENCES Question 10.

How does your national legal framework ensure that any person reporting in good faith suspected sexual abuse and sexual exploitation of a child, including a person bound by professional confidentiality rules, does not get prosecuted or punished by judicial proceedings for defamation, libel or similar offences?^[31]

[31] Based on *Yuppala v. Finland* (no. 18620/03), 2 December 2008 and *M.P. v. Finland* (no. 36487/12), 15 December 2016. Partly based on Article 12 of the Lanzarote Convention.

The provision on defamation is laid down in chapter 24, section 9 of the Criminal Code. According to the provision: “A person who 1) presents false information on or a false insinuation of another person so that the act is conducive to causing damage or suffering to that person or subjecting that person to contempt, or 2) disparages another person in a manner other than that referred to in paragraph 1 shall be sentenced for defamation to a fine.”

According to the travaux préparatoires of the Criminal Code (government proposal HE 19/2013 vp, defamation is always about presenting a false claim or insinuation about another person. The veracity of such a claim can be verified afterwards. This may be, for example, an allegation of committing an offence or other act that may cause damage or contempt to the target. In addition, defamation is punishable only as an intentional act, so if there have been strong grounds and probable reasons to consider that the statements are true, the defamation is absent. Thus, a person reporting in good faith suspected sexual offence against children will not be charged with defamation.

According to section 25 of the child Welfare Act, notwithstanding secrecy provisions, persons employed by one of the following parties or in positions of trust, persons in similar assignments or self-employed persons and all health care professionals are obliged to notify the wellbeing services county without delay if they have learned in their duties of a child whose need for care and attention, circumstances endangering

development or personal behaviour require that the need for child welfare be investigated if necessary:

1) healthcare and social welfare services or child day care; 2) education services; 3) youth services; 4) the police; 5) The Criminal Sanctions Agency; 6) fire and rescue services; 7) a provider of social services, child day care or health care services; 8) the education provider; 9) a parish or other religious Community; 10) reception centres or registration centres referred to in section 3 of the Act on the reception of persons applying for International protection and on the identification and assistance of victims of trafficking in Human beings units engaged in emergency response centre operations; 12) a unit engaged in morning or afternoon activities for schoolchildren; 13) Customs; 14) the border Guard; 15) the enforcement authority; 16) Social Insurance institution of Finland. Persons other than those referred to in subsection 1 may also submit such a notification notwithstanding any secrecy provisions that may apply to them. Notwithstanding secrecy provisions, the persons referred to in subsection 1 above are obliged to report to the police when they have reason to suspect, on the basis of circumstances that have come to their knowledge in the course of their duties, that the child has been subjected to: 1) an act punishable as a sexual offence under Chapter 20 of the Criminal Code; or 2) an act punishable as an offence against life and health under Chapter 21 of the Criminal Code for which the maximum punishment provided is imprisonment for at least two years. Notwithstanding the provisions of subsections 1 and 3, separate provisions or regulations apply to the secrecy obligation related to confession or other mental treatment.

Here you can upload any file(s) in support of your answer

ASSISTANCE TO THIRD PARTIES Question 11.

What kind of legislative or other measures does your national legal framework have in place to ensure that persons close to the victim may benefit, where appropriate, from therapeutic assistance, notably emergency psychological care?^[32]

[32] 1st Implementation Report "Protection of Children against Sexual Abuse in the Circle of Trust: The Framework", Recommendation 30

See reply to question 12.

Moreover, when a child's matter is handled in the Barnahus-unit, the employees of the unit also provide immediate support to family members of the victim and give advice on how to receive further support from their own wellbeing services county.

In a sudden and shocking situation, it is possible for the victim's family and friends to receive psychosocial support under section 29 b of the Social Welfare Act and section 50b of the Health care Act.

Here you can upload any file(s) in support of your answer

ASSISTANCE TO THIRD PARTIES Question 12.

When determining the support required to the victim and the persons close to him or her, how does your national legal framework ensure that the child's disclosure does not worsen his or her situation and that of

the other non-offending members of the family?[33]

[33] *Ibid.*, Recommendation 31

The criminal investigation authority shall inform the injured party without undue delay to the extent that this is necessary, taking into account the circumstances relating to the injured party's person and the nature of the offence, the available support services (chapter 4, section 19 of the Criminal Investigation Act). If the injured party is deemed to be in need of special protection, or if the nature of the offence or the personal circumstances of the injured party otherwise so require, the criminal investigation authority shall ask the injured party whether he or she consents to the transfer of his or her contact information to the provider of support services for the injured parties, and if the injured party consents to it, forward the contact information without undue delay (chapter 4, section 10 of the Criminal Investigation Act). In practice this means that, in cooperation with other authorities, it must be ensured that the necessary psychosocial support and care process is initiated without delay and that the child and the family are referred to the necessary support and care services. The social welfare authorities also, for their part, assess the child's and family's need for services and support (see reply to question 11).

The police can direct the child and the family for example to Victim Support Finland (<https://www.riku.fi/en/victim-support-finland/>). Victim Support Finland provides victim support services for all crime victims and their families. Their main operation is to improve the position of the victim of crime, their family members and the witness of the criminal case by influencing and producing low-threshold support and counselling services. Victim Support Finland offers e.g. emotional support and legal advice. Services are produced as nationwide phone and online assistance services, as well as personal services at service points around Finland. In addition, there is a network of Seri Support Centres across the country that offer support to victims of sexual violence. However, this support is only offered to those aged over 16, thereby precluding the majority of children from accessing their services. Seri Support Centres offer e.g. forensic examinations, medical treatment, trauma support and psychological counselling. For child victims of trafficking, support may be also provided by the Assistance System for Victims of Trafficking. Information about the services can also be accessed through this link: https://www.riku.fi/content/uploads/su_file/riku_en_03.pdf.

In 2019, Finland initiated nationwide Barnahus project to be implemented around the core of five university hospital expert units specialising in forensic psychology/psychiatry. The objective of the Barnahus project is to mainstream practices compliant with the Barnahus standards in investigation processes of suspected cases of violence against children as well as in support and treatment provided for children who have encountered violence. The aim is to ensure that all children in Finland involved in criminal investigations benefit from a high-quality assessment in child-friendly settings, appropriate psychosocial support and child protective services. The units operate through the interagency cooperation from various professionals from fields such as police, prosecution, health care, psychology and education.

The Barnahus project has trained professionals in psychosocial support methods to help children and young people who have experienced potentially traumatic events. In addition, the project has produced material and online training on the different themes. The site has a dedicated section for those close to the child or young person. The project has been coordinated by the Finnish Institute for Health and Welfare (THL) since 2019. The project will run until the end of 2025. THL has responded to the Council of Europe mapping questionnaire regarding the Barnahus-model.

Here you can upload any file(s) in support of your answer

MONITORING OF OFFENDERS Question 13. Does your national legal framework provide for:

a. a mechanism to monitor or supervise persons convicted of child sexual abuse and, specifically, persons convicted of child sexual abuse while holding a recognised position of trust, authority or influence?^[34]

Please provide details.

[34] *Ibid.*, Recommendation 33

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (13.a Yes)

Under the Criminal Code, a sentence of imprisonment or conditional imprisonment is always imposed for sexual offences against children. If the sentence of imprisonment is imposed as conditional, a monitoring sentence may be imposed in addition to it (chapter 6, section 11 a of the Criminal Code).

In addition, a rehabilitation programme “STEP” (Strength-Based Sex Offender Treatment Program) is available for those convicted of sexual offences. The Prison and Probation Service of Finland introduced the programme in September 2018 and replaced the previously used “STOP” programme. The new programme is used as a group-based programme only in the rehabilitation department of Riihimäki prison for sexual offenders. The programme is intended for persons who have committed sexual offences and whose risk of recidivism is high or fairly high. The duration of the programme is approximately 7-8 months and it includes group discussions and behavioural exercises, for example. Applications for the programme can be submitted from all Finnish prisons at any time and the participation is voluntary.

An Act on Supervised Parole (629/2013) includes provisions on medical treatment for sex offenders. Under Section 4 of the Act, it is possible to require that the person convicted agrees to commit to medical treatment and possibly psychological treatment as part of the requirements for the parole. The treatments are intended to prevent the recidivism of sexual offences. The effects of the treatment need to be explained to the prisoner before he/she commits to the treatment. All the measures are voluntary.

According to section 1 of the Criminal Records Act (770/1993) information that is necessary for the imposition and enforcement of criminal sanctions is entered and stored in the criminal records and disclosed from there. Information may also be disclosed from the criminal records for the purpose of establishing and assessing a person’s reliability or personal aptitude. According to section 3 on the Act on checking the Criminal Background of Persons Working with Children (504/2002), an employer shall ask a person to produce an extract from the criminal records when the person is employed or appointed for the first time to a contractual employment relationship or public-service employment relationship which includes work referred to in section 2 of the said Act, or when such work is assigned to that person for the first time.

The Central Union for Child Welfare has stated that the aforementioned Act requires the producing of an extract from the criminal records only at the beginning of the employment or public-service employment relationship and that in relationships that last for up to three months, the employer is not obliged but has a right to ask a person to produce the extract from the criminal records.

In addition, the Act on checking the Criminal Background of Volunteers Working with Children (148/2014) enables that the organizer of the volunteer task has the right to request an extract from the criminal record about the volunteer.

Here you can upload any file(s) in support of your answer

b. **sharing with other countries data concerning persons convicted of child sexual abuse?**^[35] Please provide details.

[35] Based on Article 38 of the Lanzarote Convention.

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (13.b Yes)

According to section 24 (on communication of information from criminal records) of the Act on International Legal Assistance in Criminal Matters (4/1994) upon the request of a foreign authority, information from criminal records may, in accordance with this Act, be communicated to the requesting authority for criminal proceedings under the same conditions as to Finnish authorities.

Provisions on the communication of information from criminal records to the competent authority of another Member State of the European Union are laid down in the Act on Storing and Disclosing Criminal Records between Finland and Other Member States of the European Union (214/2012).

Also, the Act (470/2021) contains such provisions in relation to United Kingdom.

Under national legislation, social welfare and health care professionals are obliged to secrecy, which safeguards the privacy of clients and patients. The secrecy obligation will remain in force after the end of the professional activity.

The national legislation provides for explicit exceptions, in which case the professional has the right to provide information notwithstanding secrecy provisions. Such an opportunity may be based on, for example, the consent given by the client or patient or a situation in which a person may report to the police the information necessary for assessing a threat to life or health and preventing a threatening act if the person has, in the performance of his or her duties, received information on circumstances on the basis of which he or she has reason to suspect that someone is at risk of being subjected to violence.

Here you can upload any file(s) in support of your answer

MEASURES IN RESPECT OF PROFESSIONALS AND LEGAL PERSONS Question 14. Does your national legal framework:

a. allow for the immediate removal or suspension of a professional or volunteer working with children suspected of sexually abusing a child?^[36] Please provide details.

[36] Based on Article 27§3(b) of the Lanzarote Convention.

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (13.a Yes)

The Act on checking the Criminal Background of Persons Working with Children lays down provisions on the employer's obligation to investigate the criminal background of persons working with children. According to Section 2 of the Act, the Act applies to work performed in a contractual employment relationship or a public-service employment relationship which involves, on a permanent basis and to a material degree, and in the absence of any person who has custody of the child, raising, teaching, caring for or looking after a minor, or other work performed in personal contact with a minor. According to Section 3, an employer shall ask a person to produce an extract from the criminal records when the person is employed or appointed for the first time to a contractual employment relationship or public-service employment relationship which includes work referred to in section 2, or when such work is assigned to that person for the first time.

Chapter 7, section 2 of the Employment Contracts Act lays down the termination grounds related to the employee's person. According to the Act, serious breach or neglect of obligations arising from the employment contract or the law and having essential impact on the employment relationship as well as such essential changes in the conditions necessary for working related to the employee's person as render the employee no more able to cope with his or her work duties can be considered a proper and weighty reason for termination arising from the employee or related to the employee's person. An employee's offence is an individual reason for terminating the employment contract.

In addition, chapter 7 of the Act on public Officials in Central Government (750/1994) lays down provisions on the termination of public-service employment relationships. A public official may be dismissed if he or she is no longer able to perform his or her official duties appropriately. A public official may also be dismissed if he or she continuously and materially neglects his or her official duties or neglects to attend to them.

As regards removal or suspension of an employee or a public official from the workplace because of a suspected offence, a mere suspicion of an offence that has taken place is not sufficient. There must be sufficient evidence that the offence has taken place. The sentence for the offence may affect how the employer assesses the preconditions for continuing the employment relationship when it comes to working with children.

According to chapter 9, section 40, a public official shall be suspended from the office in addition to situations of termination of public-service employment relationships when, e.g., for the duration of a criminal charge and the investigations it requires if they may have an effect on the official's abilities to perform his or her duties.

Here you can upload any file(s) in support of your answer

b. ensure that professionals working in the public, private or voluntary sectors failing to report offences of child sexual abuse occurring in “out-of-home care”^[37] settings are held liable?^[38] Please provide details.

[37] In accordance with the Declaration of the Lanzarote Committee on protecting children in out-of-home care from sexual exploitation and sexual abuse adopted at its 25th meeting (15-18 October 2019), “out-of-home care” represents all settings in which children can be placed out of their home for care (see point b of the Declaration).

[38] Based on the Declaration of the Lanzarote Committee on protecting children in out-of-home care from sexual exploitation and sexual abuse, point 6.

- Yes
- No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (13.b Yes)

The Child Welfare Act lays down provisions on the obligation to report an offence against children. Section 25 of the Act contains a provision on the duty to notify. For example, providers of social and health-care services and child day care, education services, youth services, the police service, social welfare and health care service, a parish or other religious communities are obliged to notify an offence against children. The obligation is in force notwithstanding secrecy provisions. The obligation to report suspected violence applies to sexual offences in Chapter 20 of the Finnish Criminal Code and offences against life or health in which the maximum punishment is at least two years' imprisonment. The reporting obligation applies to situations where the victim of violence is a minor.

In addition, according to chapter 15, section 10 of the Criminal Code, a person who knows that an offence concerning rape of a child, aggravated sexual abuse of a child or aggravated rape of a child is being planned and fails to report it to the authorities or to the person in danger when there is still time to prevent the offence shall be sentenced, if the offence or a punishable attempt at the offence is committed, for failure to report a serious offence to a fine or to imprisonment for at most six months.

Relevant is also chapter 40, section 9 of the Criminal Code (concerning violation of official duty), according to which if a public official, when acting in his or her office, intentionally in a manner other than provided above in this chapter or in chapter 11, section 9(a), violates his or her official duty based on the provisions or regulations to be followed in official functions, and the act, when assessed as a whole, taking into consideration its detrimental and harmful effect and the other circumstances connected with the act, is not petty, he or she shall be sentenced for violation of official duty to a fine or to imprisonment for at most one year. The public official may also be sentenced to dismissal if he or she is guilty of the offence referred to in subsection 1 by continuously or essentially acting in violation of his or her official duties, and the offence indicates that he or she is manifestly unfit for his or her duties.

According to chapter 40, section 10 on negligent violation of official duty, if a public official, when acting in his or her office, through carelessness in a manner other than that referred to in section 5, subsection 2, violates his or her official duty based on the provisions or regulations to be followed in official functions, and the act, when assessed as a whole, taking into consideration its detrimental and harmful effect and the other circumstances connected with the act, is not petty, he or she shall be sentenced for negligent violation of official duties to a warning or to a fine.

The Central Union for Child Welfare points out the importance of training of the parties obliged to report and the monitoring of the use and neglect of the obligation.

Here you can upload any file(s) in support of your answer

c. **ensure that legal persons failing to protect children in their care from sexual abuse are held liable?**^[39]
Please provide details.

[39] *Ibid.*, see point 7.

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (13.c Yes)

See reply to question 14 b.

In addition, Chapter 20, Section 25 of the Criminal Code lays down provisions on corporate criminal liability for sexual offences. The provisions on corporate criminal liability apply to pandering, aggravated pandering, distribution of an image depicting a child in a sexual manner, aggravated distribution of an image depicting a child in a sexual manner and possession of an image depicting a child in a sexual manner. The same applies to solicitation of a child for sexual purposes, where a meeting or another contact with a child is suggested with the intention to produce images or visual recordings that depict a child in a sexual manner.

Here you can upload any file(s) in support of your answer

SPECIAL REPRESENTATIVES Question 15. How does your national legal framework ensure that special representatives and guardians ad litem who are appointed to avoid a conflict of interest between the holders of parental authority and the child victim:

a. **receive appropriate training and legal knowledge to ensure and safeguard the best interests of the child victim during criminal investigations and proceedings?**^[40]

[40] 1st Implementation Report "Protection of Children against Sexual Abuse in the Circle of Trust: The Framework", Recommendation 35

As mentioned in the reply to question 7 a, the court shall appoint a trustee in the criminal investigation for a party under the age of 18 years if there is justified reason to assume that the person having care and custody of the child, the trustee or other legal representative cannot objectively ensure the interests of the party in the matter and the appointment of a trustee is not evidently unnecessary (chapter 4, section 8 of the Criminal Investigation Act). The qualifications of a guardian appointed under chapter 4, section 8 of the Criminal Investigation Act are determined in accordance with the Guardianship Service Act. According to the act, a person who is suitable for the duties and consents to the appointment may be appointed as a guardian. In the assessment of suitability, the skills and experience of the nominee and the nature and extent of the duties shall be taken into consideration, among other things (chapter 2, section 5 of the Guardianship Service Act).

With regard to the child's guardian, particular attention should be paid to ensuring that the person appointed as the guardian is able to assess the best interests of the child from the perspective of the rights of the child and the special protection of the child. The starting point is that the child's guardian has received appropriate training in guardianship duties and is aware of his or her responsibility. It is stated in the legislative drafting material that the guardian could be an expert in the child's affairs or a person who has received legal training. In the assessment of suitability, the skills and experience of the nominee and the nature and extent of the criminal case should be taken into account (government proposal HE 222/2010 vp). If a separate person has been appointed as a legal counsel to the child, the counsel must ensure that the guardian receives sufficient information related to the criminal proceedings. It should also be noted that the guardian does not necessarily have legal training. Thus, cooperation between the guardian and the counsel plays a key role.

In 2022, a study was published on the current state of child guardianship in criminal and child protection cases in Finland. The study formulated legislative proposals and resulted in the development of national quality criteria for the supervision of children in criminal and child protection cases, as well as guidelines on good practice in the field of child protection to ensure that the best interests of the child are considered. The analysis of the material in the report showed that the child's own guardians cannot, for various reasons, ensure the implementation of the child's rights in the matter concerning the child. Children are, in particular, in a different position in different parts of the country.

Here you can upload any file(s) in support of your answer

b. [avoid combining the functions of a lawyer and guardian ad litem in one person?](#)^[41]

[41] Ibid., Recommendation 36

The court may appoint trial counsel for an injured party for the criminal investigation and, when the injured person has claims in a case in which the prosecutor has brought charges, for the criminal proceedings in a case concerning e.g. a sexual offence referred to in Chapter 20 of the Criminal Code, unless there is a special reason for deeming this unnecessary (chapter 2, section 1 a of the Criminal Procedure Act). In practice, this means that a counsel should be appointed in all suspected sexual offences against a child.

A guardian and a legal counsel have different duties. A guardian exercises the child's right to be heard and makes sure that the best interests of the child are taken into consideration during the investigative and judicial proceedings. A legal counsel is responsible for duties related to the judicial handling of a criminal case (e.g. presents the claims for punishment and damages, and assists the child in the criminal investigation and trial). A person acting as a legal counsel in a matter may also be appointed as a guardian, in which case the person acts simultaneously in two different tasks. However, child's guardian and legal counsel may also not be the same person.

According to the instructions of the National Police Board (POL-2019-34669, p. 20, 31), in situations of conflicts of interests between a child and the holders of parental authority, a person with a social education background who is separate from the legal counsel should act as the guardian of the child in accordance with a tandem model. In the tandem model, the guardian and the legal counsel are not the same person, in which case the child's guardian may be e.g. a child welfare authority and the child's legal counsel e.g. a public legal aid attorney. The tandem model emphasises cooperation between the guardian and the counsel. In each individual case, the assignment of a guardian and a legal counsel to the same or different persons

must be assessed in accordance with the special characteristics of the case and taking into account the best interests of the child.

Here you can upload any file(s) in support of your answer

c. **are provided free of charge for the child victim?**^[42]

[42] *Ibid.*, Recommendation 37

The costs incurred in the appointment of the trustee and the fee and expenses of the trustee are paid from State funds (chapter 4, section 8 of the Criminal Investigation Act).

In addition, according to chapter 2, section 1 a of the Criminal Procedure Act the court may appoint trial counsel for an injured party for the criminal investigation and, when the injured person has claims in a case in which the prosecutor has brought charges, for the criminal proceedings, e.g., in a case concerning a sexual offence referred to in Chapter 20 (sexual offences) of the Criminal Code, unless there is a special reason for deeming this unnecessary.

Here you can upload any file(s) in support of your answer

SPECIAL REPRESENTATIVES Question 16. [for 22 Parties + Malta]

a. **Do you appoint a special representative or guardian ad litem when there is a conflict of interest between the holders of parental authority and a child?**^[43] Please provide details.

[43] *Ibid.*, Recommendation 34

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (16.a Yes)

As mentioned in replies to questions 7 a and 15 a, the court shall appoint a trustee in the criminal investigation for a party under the age of 18 years if there is justified reason to assume that the person having care and custody of the child, the trustee or other legal representative cannot objectively ensure the interests of the party in the matter and the appointment of a trustee is not evidently unnecessary. The head investigator shall if necessary submit an application to the court for the appointment of a trustee. The application may be submitted also by the public prosecutor, wellbeing services county or guardianship authority referred to in section 84 of the Guardianship Services Act (chapter 4, section 8 of the Criminal Investigation Act).

Here you can upload any file(s) in support of your answer

b. **Is this person allowed to be present throughout the criminal proceedings?**^[44] Please provide details.

[44] *Ibid*

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (16.b Yes)

The appointment as trustee is in force until the conclusion of the criminal proceedings following the criminal investigation in respect of which the appointment has been made (Criminal Investigation Act, Chapter 4, Section 8). Therefore, the guardian exercises the child's right to be heard during consideration of charges, district court proceedings and any appeal stage, depending on how far the matter progresses (HE 222/2010 vp, p. 196).

If the person being questioned is under the age of 15 years, the person responsible for his or her care and custody, or his or her trustee or other legal representative has the right to be present in the questioning. If the injured party is a minor over the age of fifteen years, his or her legal representative has the right to be present in the questioning if said legal representative may, in accordance with chapter 12, section 1 or 2 of the Code of Judicial Procedure, speak on behalf of or in addition to the minor in the trial concerning the offence being investigated. The investigator may prohibit the presence of the legal representative in the questioning if this person is a suspect in the offence under investigation or if his or her presence may otherwise be assumed to hamper the clarification of the offence (chapter 7, section 14 of the Criminal Investigation Act). The guardian can therefore also be present when the child is being interviewed, if it can be assumed that the presence of the guardian would not hamper the investigation of the offence.

Here you can upload any file(s) in support of your answer

SUPPORT FOR CHILD VICTIMS IN INVESTIGATIVE AND JUDICIAL PROCEEDINGS Question 17. In investigative and judicial proceedings how does your national legal framework ensure that:

a. **protection measures are available to all children irrespective of their age?**^[45] Please provide details.

[45] *Ibid.*, Recommendation 38

Most of the protection measures in investigative and judicial proceedings in a case of a sexual offence are applicable to all victims of sexual offences regardless of their age. Some of the measures are applicable to victims under the age of 18 years, but the legislation does not contain provisions that would differentiate between the possibility of targeting protection measures at children who have been victims of sexual offences on the basis of their age. Therefore, all protection measures are applicable to all minor victims of sexual offences regardless of their age.

In addition, for the purposes of ensuring that protection measures are available to all children irrespective of their age, according to the Criminal Investigation Act (805/2011), the authority carrying out criminal

investigation needs to assess, without undue delay, if there is a need for special protection and specific protective measures (chapter 11, section 9 a). When carrying out such evaluation, personal circumstances (e.g. age) need to be taken specifically into account. As mentioned before, the child may be issued a legal guardian (chapter 4, section 8 §), counsel (chapter 4, section 10) or both (so-called tandem model).

Moreover, according to chapter 4, section 7 of the Criminal Investigation Act, in the criminal investigation, a person under the age of 18 years shall be treated in the manner required by his or her age and level of development. Particular care shall be taken so that criminal investigation measures do not cause him or her unnecessary inconvenience at school, at work or in other environments important to him or her. To the extent possible, investigation measures directed at persons under the age of 18 years shall be assigned to investigators particularly trained in this function. When necessary, the criminal investigation authority shall consult with a physician or other expert on whether investigation measures may be directed at a person under the age of 18 years.

In respect of protection measures, see also replies to questions 7, 12, 15, 17, 19 and 20.

Here you can upload any file(s) in support of your answer

b. [specificities of sexual abuse committed in respect of a child by someone in a recognised position of trust, authority or influence are taken into account in the measures and procedures applied during criminal investigations and proceedings in order not to aggravate the trauma experienced by the child?](#)^[46] Please provide details.

[46] *Ibid.*, Recommendation 39

In the criminal investigation, a person under the age of 18 years shall be treated in the manner required by his or her age and level of development. Particular care shall be taken so that criminal investigation measures do not cause him or her unnecessary inconvenience at school, at work or in other environments important to him or her. To the extent possible, investigation measures directed at persons under the age of 18 years shall be assigned to investigators particularly trained in this function. When necessary, the criminal investigation authority shall consult with a physician or other expert on whether investigation measures may be directed at a person under the age of 18 years (chapter 4, section 7 of the Criminal Investigation Act).

In 2022, an Act was enacted by Parliament under which certain crimes against persons under the age of eighteen years, including sexual offences and human trafficking offences, will be dealt urgently, corresponding to the legislation already concerning suspects and accused persons under the age of eighteen years (chapter 3, section 11, chapter 1, section 8 a and chapter 5, section 13 of the Criminal Investigation Act). The new legislation entered into force in October 2023. The aim is to reduce the processing times of offences against children. See also reply to question 18.

Moreover, the Criminal Investigation Act includes regulation on protecting persons in need of special protection as a general rule (chapter 7, section 21). The Act includes also a specific section on the treatment of children in criminal investigations (chapter 4, section 7), which requires that the personal qualifications of the child (age, development) are taken into account and that support measures do not cause the child unnecessary disadvantage at school, work or any other environment important to the child. Also, the investigation of children below 18 years should, as far as possible, be assigned to police officers that are specialized in criminal investigations of children.

In child and adolescent forensic psychology and forensic psychiatry units (Barnahus-type units), interviews with children and young people are carried out at the request of the police. The purpose of the interviews is to help children to report their experiences as independently and accurately as possible. The interviews are prepared by adapting a research-based interview framework (NICHHD) on a case-by-case basis, taking into account the individual needs of the child and the pre-case information. The aim is to minimize the number of interviews needed. The interview of children and young people is part of both the preliminary investigation and the trial.

The child's individual capacities are assessed by a multi-professional team before and during the interview. During interviews with children, the services also assess the child's need for support and care.

The National Police Board has also issued instructions concerning a child in police operation and criminal investigation (POL-2019-34669). A handbook (<https://poliisi.fi/documents/25235045/33939256/K%C3%A4sikirja-lapsiin-kohdistuvien-v%C3%A4kivalta-ja-seksuaalirikosten-tutkintaan-web.pdf/01b971f6-8ebb-eb54-dd97-6c1663d616b3/K%C3%A4sikirja-lapsiin-kohdistuvien-v%C3%A4kivalta-ja-seksuaalirikosten-tutkintaan-web.pdf?t=1642679496880>) for investigation of sexual and violent offences against children 2022 has been published in the margins of the Barnahus project. The handbook has been edited in the National Police Board.

Interviewing children and young people in legal proceedings requires that they have sufficient language skills. Where necessary, interpreters are used during the interview and the use of specialised legal interpreters is recommended. The Barnahus project has trained registered court interpreters for criminal cases involving children, in cooperation with the Police Board. This specialised training has been completed by 62 registered court interpreters.

Here you can upload any file(s) in support of your answer

c. **a child who is a presumed victim of sexual abuse is supported by a professional trained to safeguard children's psychological well-being**?^[47] Please provide details.

[47] Based on *N.Ç. v. Türkiye* (no. 40591/11), 9 February 2021

If the injured party in a sexual offence referred to in chapter 20 of the Criminal Code who is to be heard in person in order to clarify the case, may be deemed to need support in the criminal investigation and the criminal proceedings, an adequately qualified support person may be appointed for him or her unless there is a special reason for deeming this unnecessary (chapter 2, section 3 of the Criminal Procedure Act). Appointing a legal counsel or a guardian does not exclude the possibility of appointing a support person.

The support person shall provide personal support to the injured party in the criminal investigation and the trial and assist him or her in the matters arising in the resolution of the case (chapter 2, section 9 of the Criminal Procedure Act). The support person has also the right to be present when his or her client is being questioned, unless the head investigator prohibits this for weighty investigative reasons (chapter 7, section 12 of the Criminal Investigation Act).

The provisions of the State Compensation for Witnesses Act apply to the payment of compensation to a support person. Therefore, the support person receives compensation from State funds for loss of income and travel expenses the same way as a person to be heard as a witness in court (chapter 2, section 10 of the Criminal Procedure Act).

See also reply to question 12.

As mentioned above, as a general rule authority carrying out criminal investigation needs to assess without undue delay if there is a need for special protection and specific measures (chapter 11, section 9 a of the Criminal Investigation Act). Such assessment enables following multi-agency supporting measures (Barnahus model) in support of a child presumed victim of sexual abuse. Barnahus –model was addressed in Finland’s questionnaire during the previous round (question 22 a), when the model was at its piloting stage. Nowadays the model is current practice. The Barnahus units employ, for example, child psychiatrists, psychologists and social workers.

According to Save the Children Finland, children’s access to the services is, currently, not equal. Additionally, although sexual offences against children will need to be processed quicker, at the moment, the processes are still lengthy, unpredictable, and can further traumatise the child. According to the Central Union for Child Welfare, attention shall be given to the resources required by the change in the legislation. The Union states also that there are shortcomings in the provision of psychosocial support. For example, the practices vary and there are substantial regional differences. Also the consent of the custodian may prevent the organisation of care. The Central Union for Child Welfare refers also to the concluding observations of the Committee of the Rights of the Child (22 (c) and 23 (e)).

Here you can upload any file(s) in support of your answer

SUPPORT FOR CHILD VICTIMS IN INVESTIGATIVE AND JUDICIAL PROCEEDINGS Question 18.

Since the adoption of the 1st implementation report in the 1st monitoring round in 2015, has your national legal framework been amended to ensure that the justice system accommodates more fully the specificities attached to the participation of children as victims in proceedings and not solely as perpetrators of criminal offences?^[48] Please provide details.

[48] 1st Implementation Report “Protection of Children against Sexual Abuse in the Circle of Trust: The Framework”, Recommendation 40

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (18 Yes)

Several amendments to the law have been made to this effect. For example, most notably, the Code of Judicial Procedure and the Criminal investigation Act (805/2011) were amended in connection with hearing the injured party.

The amendments to the chapter 17 on evidence in the Code of Judicial Procedure entered into force in 2016. Chapter 17 of the Code of Judicial Procedure now contains more flexible provisions on hearing an injured parties in need of special protection. Thus, it is now possible to hear person aged 15 or over through videoconferencing if the person is in need of special protection (chapter 17, section 52). A provision on the use of visual protection has also been included in the Act. The injured party may be heard behind a visual

impediment if he or she is in need of special protection (chapter 17, section 51).

Amendments to the Criminal Investigation Act also entered into force in 2016. A new Section 21 on the hearing of injured parties in need of special protection was added to Chapter 7 of the Act. According to the provision: "If the injured party is in need of special protection, taking into account in particular his or her personal circumstances and the nature of the offence and this does not significantly delay the consideration of the matter or cause other detriment: 1) the hearing of the injured party shall be conducted in the premises intended for the hearing of persons in need of protection; 2) the same person or persons shall conduct all interviews with the injured party, if the injured party so requests; and 3) in a case concerning a sexual offence referred to in Chapter 20 of the Criminal Code and in another criminal case where the injured party has a justified need for it due to the nature of the offence, the interrogator shall be of the same sex as the injured party if the injured party so requests.

In addition, a new section 9a was added to Chapter 11 of the Criminal investigation Act, which has already been mentioned, contains provisions on the personal assessment of the injured party. According to the section, the criminal investigation authority shall, without undue delay, assess whether the injured party is in need of special protection during the criminal investigation or judicial proceedings. The section also provides that the criminal investigation authority shall, without undue delay, assess whether the above-mentioned measures referred to in the Code of Judicial Procedure are necessary.

Moreover, the following amendments to the Criminal Investigation Act and the Criminal Procedure Act concerning the urgent processing of cases have entered into force on 1 October 2023:

Criminal Investigation Act

Chapter 3, section 11, subsection 3

When a person under 18 years of age is suspected of having committed an offence or of having committed a criminal act under 15 years of age, the pre-trial investigation shall be submitted as a matter of urgency.

Criminal Procedure Act

Chapter 1, section 8a, subsection 3

If the injured party is under 18 years of age and the suspected offence is a sexual offence against the injured party or a crime against his or her life, health, freedom, privacy, peace or honor, the prosecutor shall, as a matter of urgency, decide whether to prosecute him or her. Charges must also be brought without delay.

Chapter 5, section 13

If the injured party is under 18 years of age and the suspected offence is a sexual offence against the injured party or a crime against his or her life, health, freedom, privacy, peace or honor, the main proceedings shall be initiated within 30 days of the initiation of the criminal proceedings. If the main proceedings are withdrawn, the new main proceedings shall be initiated within 30 days of the date on which the main proceedings were to be initiated.

Here you can upload any file(s) in support of your answer

INVESTIGATION Question 19. In the investigation phase:

In 2023 the Steering Committee for the Rights of the Child (CDEF) circulated a questionnaire in the framework of its mapping study of the implementation and development of Barnahus model in Europe. Should your authorities have responded to this questionnaire, you may reiterate those replies and complete as need be.

a. **are interviews of child victims arranged in a child-friendly setting separate from the usual premises where investigations and interviews are conducted (such as police, hospital or court premises), and are such settings provided throughout your territory?**^[49] Please provide details.

[49] *Ibid.*, Recommendation 41

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (19.a Yes)

If the victim is in need of special protection, taking into account victim's personal circumstances and the nature of the offence, and this does not significantly delay the consideration of the matter or cause other harm, the interviews of the victim shall be conducted in special facilities designed for questioning persons in need of protection. In addition, victims of sexual offences may request to be interviewed by someone of the same gender (chapter 7, section 21 of the Criminal Investigation Act).

The police departments have child-friendly facilities in which the child can be interviewed and the interview recorded on a video. The police may interview a child by themselves in a child-friendly environment or request assistance from child and adolescent forensic psychology or psychiatry units of university hospitals, which are located in Helsinki, Kuopio, Oulu, Tampere and Turku. They are specialised in hearing minor victims. The facilities of these units have been designed to be child-friendly, and the interviews are conducted by experts with special training. The units are multi-professional and have varying numbers of child psychiatrists, psychologists with expertise in forensic psychology, social workers and psychiatric nurses. The activities of the units are based on the Act on Organising the Investigation of Sexual and Assault Offences Against Children. The police work in a close-knit cooperation with these units.

According to the Instruction of the National Police Board (POL-2019-34669), the place of the interview is not strictly regulated, but it has to be suitable for interviewing children and there has to be adequate video-recording equipment. The most vulnerable victims are interviewed within Barnahus-type units, and the rest by the police, although not always in the police station (occasionally family centers, schools or kindergarten premises are used, with portable video-recording equipment).

The Central Union for Child Welfare draws attention to the resources of investigative authorities and to the unequal position of children depending on their place of domicile/the place where the offence was committed.

Here you can upload any file(s) in support of your answer

b. **are all staff responsible for interviewing child victims required to undergo suitable qualifying training?**^[50] Please provide details.

[50] *Ibid.*, Recommendation 42

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (19.b Yes)

To the extent possible, investigation measures directed at persons under the age of 18 years shall be assigned to investigators particularly trained in this function (chapter 4, section 7 of the Criminal Investigation Act). It is also stated in the instructions of the National Police Board (POL-2019-34669, p. 17) that an interview of a child shall be carried out by a police officer trained in interviewing children and specialised in the matter.

Staff responsible for interviewing child victims is required to undergo suitable qualifying training. Specific training is organised annually at the Police University College for police officers investigating crimes against children. There is a course on sexual crimes and a specific, 1-year-long course regarding criminal investigation of children. Training is provided on a yearly basis by the Police University College.

As mentioned, the National Police Board has also issued instructions concerning a child in police operation and criminal investigation (POL-2019-34669).

As mentioned in the reply to question 19 a, interviews with children can be conducted by the police or the police can also discuss the matter with an expert as necessary, and agree that the child will be interviewed through an expert. In this case, the police may request assistance from child and adolescent forensic psychology or psychiatry units of the university hospitals. In these units, the child is usually interviewed by a psychologist specialised in forensic psychology.

According to the Barnahus quality standards (Barnahus Quality Standards, 2017), the interview of a child should be conducted by a specially trained professional using an evidence-based interview method. Thus, all Barnahus-type units in Finland utilize psychologist who have experience in forensic and developmental psychology. In addition, new psychologists entering the Barnahus-type unit work force complete the above mentioned training offered by the Police University College.

Here you can upload any file(s) in support of your answer

c. [does your national legal framework require that interviews with child victims are conducted as soon as possible after the offence, that their duration and number are limited, and that in their organisation account is taken of the child's age and attention span?](#)^[51] Please provide details.

[51] *Ibid.*, Recommendation 43

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (19.c Yes)

In the criminal investigation, a person under the age of 18 years shall be treated in the manner required by his or her age and level of development (chapter 4, section 7 of the Criminal Investigation Act). When interviewing a child, this requires taking into account the child's age, level of development and mental development as well as the best interests of the child.

As mentioned in the reply to question 17 b, in 2022, a government proposal (HE 144/2022 vp) was adopted by Parliament under which a criminal investigation of certain crimes against persons under the age of eighteen years, including sexual offences and human trafficking offences, will be conducted urgently (chapter 3, section 11 of the Criminal Investigation Act). This new legislation entered into force in October 2023. Also according to the instruction of the National Police Board (POL-2019-34669, p. 29), interviews with child victims shall be conducted as soon as possible after the suspicion of an offence has arisen.

The criminal investigation authority must ensure that the criminal investigation measures do not cause unnecessary harm to the child (chapter 4, section 7 of the Criminal Investigation Act). This should also be taken into account when considering the number of the interviews. It is stated in the instructions of the National Police Board (POL-2019-34669, p. 30) that it may be necessary to conduct interviews of a child on several days, especially e.g. if it takes time to establish a contact with a child. However, children are heard only to the extent necessary. It is recommended to take breaks during the interview. The appropriate duration of the interview is individual, but interviewing a child under the age of 12 for more than one hour at a time should be avoided.

Here you can upload any file(s) in support of your answer

d. **[for Serbia] how do you ensure that child victims of sexual abuse by someone in a recognised position of trust, authority or influence are not repeatedly interviewed during the proceedings?**^[52]

[52] *Ibid.*, Recommendation 54

Here you can upload any file(s) in support of your answer

e. **where it is indispensable to interview the child victim more than once, does your national legal framework require that the interviews should, if possible and where appropriate, be conducted by the same person and under the same material conditions as the first?**^[53] Please provide details.

[53] *Ibid.*, Recommendation 44

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (19.e Yes)

If the victim is in need of special protection, taking into account victim's personal circumstances and the nature of the offence, and this does not significantly delay the consideration of the matter or cause other

harm, the same person or the same persons shall conduct all interviews with the victim, if the victim requests so (chapter 7, section 21 of the Criminal Investigation Act).

As mentioned in the reply to question 19 a, if the victim is in need of special protection, taking into account victim's personal circumstances and the nature of the offence, and this does not significantly delay the consideration of the matter or cause other harm, the interviews of the victim shall be conducted in special facilities designed for questioning persons in need of protection (chapter 7, section 21 of the Criminal Investigation Act). Therefore, the police may interview a child by themselves in a child-friendly environment or request assistance from child and adolescent forensic psychology or psychiatry units of university hospitals. This applies to all interviews with the child.

Here you can upload any file(s) in support of your answer

f. [does your national legal framework offer criminal defence the possibility to contest a child's disclosure during the interview through questions, thus obviating the need for the child to be present in the court room during the proceedings?](#)^[54] Please provide details.

[54] *Ibid.*, Recommendation 45

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (19.f Yes)

When a child under the age of 15 is interviewed, the interview is always recorded on a video. In this case, the child does not usually need to go to the court in person to tell about the events. In addition, interviews of children aged 15 to 17 may also be recorded on a video in certain situations (chapter 9, section 4 of the Criminal investigation Act and chapter 17, section 24 of the Criminal Procedure Act). See also replies to questions 20 a and 20 b for more information.

The suspect in the offence shall be reserved an opportunity to present questions to the person being questioned on all circumstances that are of significance in the clarification of the matter (chapter 9, section 4 of the Criminal Investigation Act). As most of the times a child will not be heard in the court, but the video record of the interview is part of the trial in this respect, the possibility of a counter-hearing must also so be provided during the pre-trial investigation. A hearing recorded on a video may be used as evidence only if the defendant has been reserved an appropriate opportunity to ask questions of the person being heard (chapter 17, section 24 of the Code of Judicial Procedure). Therefore, the possibility of a counter-hearing of the suspect must be taken seriously, as failing to do so may result in a situation where a video-recorded interview of the child may not be used as evidence in court.

If the person suspected in the offence so requests, his or her questions may also be presented by his or her attorney or counsel. The person conducting the investigation may nonetheless order that questions are to be submitted through him or her to the person being questioned (chapter 9, section 4 of the Criminal Investigation Act). In practice, this means that the entire recording of the interview of the child must be shown to the suspect and his or her counsel as soon as possible after the interview of the child. The recording is shown to the suspect in the premises of the police department (chapter 9, section 7 of the Criminal investigation Act). It is stated in the instructions of the National Police Board (POL-2019-34669, p. 34-35) that as a rule, the suspect should prepare in writing the questions he or she wishes to ask. If

necessary, the police can edit the questions so that presenting them is suitable for the child. The child shall be re-heard as soon as possible after that.

Here you can upload any file(s) in support of your answer

JUDICIAL PROCEEDINGS Question 20. In the judicial proceedings:

In 2023 the Steering Committee for the Rights of the Child (CDENF) circulated a questionnaire in the framework of its mapping study of the implementation and development of Barnahus model in Europe. Should your authorities have responded to this questionnaire, you may reiterate those replies and complete as need be.

a. **is systematic use of video equipment made in order to record interviews of child victims or enable him or her to testify remotely during the proceedings?**^[55] Please provide details.

[55] *Ibid.*, Recommendation 46

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.a Yes)

The Criminal Investigation Act allows for the voice or video recording of interviews if specific circumstances of the case or the person (minor) require this (chapter 9, sections 3 to 4). The questioning of an injured party shall be audio and video-recorded if the statement to be given in the questioning is intended to be used as evidence in criminal proceedings and the person to be questioned, due to his or her young age, probably cannot be heard in person without causing him or her detriment. In the questioning, consideration shall be taken of the special requirements that the level of development of the person being questioned places on the methods of questioning, the number of persons participating in the questioning and the other circumstances in the questioning. The same applies also to:

- 1) an injured person between the ages of 15 and 17 years who is in need of special protection, with consideration in particular to his or her personal circumstances and the nature of the offence;
- 2) an injured person in a sexual offence referred to in Chapter 20, section 1-5 or 8-16 of the Criminal Code or in trafficking in human beings or aggravated trafficking in human beings referred to in Chapter 25, section 3 or 3a of the Criminal Code who is between the ages of 15 and 17 years and does not want to be heard in the criminal proceedings;
- 3) an injured person in a sexual offence referred to in Chapter 20, section 1-5 or 8-16 of the Criminal Code or in trafficking in human beings or aggravated trafficking in human beings referred to in Chapter 25, section 3 or 3a of the Criminal Code who has reached the age of 18 years, if hearing him or her in criminal proceedings would endanger his or her health or would cause other significant harm (chapter 9, section 4 of the Criminal Investigation Act). The section has recently been amended and the paragraphs concerning trafficking in human beings and aggravated trafficking in human beings have entered into force in October 2023.

Here you can upload any file(s) in support of your answer

b. [does your national legal framework make an exception in the requirement to be physically present at court hearings for child victims of sexual abuse, including when they are giving evidence?](#)^[56] Please provide details.

[56] *Ibid.*, Recommendation 59

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.b Yes)

A hearing of the following persons recorded in a video or in a comparable visual and audio recording may be used as evidence if the defendant has been reserved an appropriate opportunity to ask questions of the person being heard:

- 1) a person who has not reached the age of 15 years;
- 2) an injured party between the ages of 15 and 17 years who is in need of special protection, especially taking into consideration his or her personal circumstances and the nature of the offence;
- 3) an injured person in a sexual offence referred to in Chapter 20, section 1-5 or 8-16 of the Criminal Code or in trafficking in human beings or aggravated trafficking in human beings referred to in Chapter 25, section 3 or 3a of the Criminal Code who is between the ages of 15 and 17 years and does not want to be heard in the criminal proceedings;
- 4) an injured person in a sexual offence referred to in Chapter 20, section 1-5 or 8-16 of the Criminal Code or in trafficking in human beings or aggravated trafficking in human beings referred to in Chapter 25, section 3 or 3a of the Criminal Code who has reached the age of 18 years, if hearing him or her in criminal proceedings would endanger his or her health or would cause other significant harm (chapter 17, section 24 of the Code of Judicial Procedure). As mentioned, the section has recently been.

Therefore, a child under the age of 15 does not need to go to court in person, if his or her interview has been recorded on a video during the pre-trial investigation and the suspect has been reserved an opportunity to ask questions. The starting point is that a person aged 15 or over is heard in person in court. However, there are also several special grounds for hearing a person over 15 years of age on a video in a criminal investigation. This applies to child victims aged 15-17 who are victims of sexual offences and do not want to be heard in the trial, child victims aged 15-17 in need of special protection (taking into account his or her personal circumstances and the nature of the offence) or those victims who have reached the age of 18 but are victims of sexual offences and testifying in court would endanger their health or cause other significant harm.

In addition, if the victim is under 15 years of age or in need of special protection taking into consideration especially his or her personal circumstances and the nature of the offence, the victim can also be heard in the main hearing without his or her appearance in person by using a video conference or other suitable technical means of communication by which the persons participating in the session have an audio and video contact with one another, if the court deems that this is appropriate (chapter 17, section 52 of the Code of Judicial Procedure).

See also reply to question 20 a.

Here you can upload any file(s) in support of your answer

c. [is there any difference in the scope of the application of this requirement based on the child's age?](#)^[57]
Please provide details.

[57] *Ibid.*, Recommendation 60

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.c Yes)

See reply to questions 20 a and 20 b.

Here you can upload any file(s) in support of your answer

d. [are video recordings of interviews of child victims regarded as admissible evidence?](#)^[58] Please provide details.

[58] *Ibid.*, Recommendation 47

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.d Yes)

See reply to questions 20 a and 20 b

Here you can upload any file(s) in support of your answer

e. [what measures do you take to guard against any further contact between a child victim of sexual abuse by someone in a recognised position of trust, authority or influence and a presumed offender during the criminal proceedings?](#)^[59]

[59] *Ibid.*, Recommendation 48

In order to protect the victim, the contact between the victim and the suspect may be restricted in several ways. It is possible that:

- The interview of the victim is recorded on a video to be used as evidence in court proceedings (chapter 9, section 4 of the Criminal Investigation Act and chapter 17, section 24 of the Code of Judicial Procedure).
- The victim is heard in the main hearing without the defendant being present (chapter 17, section 51 of the Code of Judicial Procedure).
- The victim is heard in the main hearing behind a screen (chapter 17, section 51 of the Code of Judicial Procedure).

- The victim is heard in the main hearing without him or her being present in person (chapter 17, section 52 of the Code of Judicial Procedure).

See also replies to questions 20 a, 20 b and 20 f for more information.

Here you can upload any file(s) in support of your answer

f. [does your national legal framework allow taking the child's testimony without the presumed offender being present?](#)^[60] Please provide details.

[60] *Ibid*

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.f Yes)

A victim may be heard in the main hearing behind a screen or without the presence of a party or other person if the court deems that this is appropriate and that such procedure is necessary in order to protect the person being heard or a person related to said person from a threat against life or health; if the person being heard would otherwise not reveal what he or she knows of the matter; or if a person heard in a criminal matter is in need of special protection taking into consideration especially his or her personal circumstances and the nature of the offence (chapter 17, section 51 of the Code of Judicial Procedure).

Moreover, according to chapter 17, section 52 of the Code of Judicial Procedure, a party being heard for probative purposes and a witness and expert witness may be heard in the main hearing without being present in person, in certain situations, through the use of a video conference or other suitable technical means of communication by which the persons participating in the hearing have audio and video contact with one another, if the court deems this appropriate.

Here you can upload any file(s) in support of your answer

g. [how do you ensure that face-to-face confrontation with the defendant during the proceedings does not take place?](#)^[61]

[61] *Ibid*

See reply to question 20 e.

Here you can upload any file(s) in support of your answer

h. [what measures do you take to prevent violation of the child victims' right to privacy by the media through disclosure or publication of personal information or data?](#)^[62]

[62] *Ibid.*, Recommendation 49

During the criminal investigations, the Act on the Openness of Government Activities applies. According to the act, documents containing sensitive information on the private life of the suspect of an offence, an injured party or another person involved in a criminal matter, as well as documents containing information on the victim of an offence, if access would violate the rights or the memory of the victim or cause distress to those close to him or her, is to be kept secret unless the granting of access is necessary for the performance of an official task (Chapter 6, section 24 of the Act on the Openness of Government Activities).

Also, although not specific to child victims of sexual crimes, the Act on the Publicity of Court Proceedings in General Courts, contains a number of provisions which may protect the privacy of child victims:

- The court may order that the identity of the injured party in a criminal case that concerns a particularly sensitive aspect of his or her private life is to be kept secret (chapter 2, section 6).
- Similarly, the trial document is to be kept secret to the extent that it contains sensitive information regarding matters relating to the private life, health, disability or social welfare of a person; or information regarding the victim of an offence if providing the information would violate the victim's rights or offend his or her memory or persons close to him or her (chapter 3, section 9).
- The court may, on the request of a participant in the case or also for a special reason, decide that oral proceedings shall be held in full or to the necessary extent without the presence of the public if: a trial document that is to be kept secret on the basis of section 9 or information that is to be kept secret on the basis of another Act is to be revealed and its consideration in public would probably cause significant detriment or harm to the interests that the provisions of the Act are designed to protect; or a person below the age of 15 years or a person in a need of special protection, taking into account in particular his or her personal circumstances and the nature of the offence, is heard in the case (chapter 4, section 15).
- The court may order that the decision be kept secret to the necessary extent if the decision contains information, which is to be kept secret in accordance with section 9, or information that had been kept confidential by holding the oral proceedings without the presence of the public. Also in such a case, the conclusions of the decision and the legal provisions applied are public. Unless the party in question requests otherwise, the court may nonetheless order that the identity of the injured party in a criminal case, if said case concerns a particularly sensitive aspect of his or her private life, is to be kept secret (chapter 5, section 24).
- If the case has social significance or it has caused considerable interest in public, a public report shall be prepared regarding the decision to be kept secret on the basis of section 24. The public report contains a general account of the case and of the reasons for the decision. In addition, a public report of a particularly sensitive offence involving the private life of a person shall be published in a manner that does not reveal the identity of the injured party (chapter 5, section 25).

In addition, according to chapter 38, section 1 of the Criminal Code (secrecy offence), a person who, in violation of a secrecy obligation provided by law or decree or specifically ordered by an authority under an act, 1) discloses information that should be kept secret and that the person has gained knowledge of by virtue of his or her position or task or in the performance of a duty, or 2) makes use of such a secret to the benefit of himself or herself or another person shall, unless the act is punishable under chapter 40, section 5, be sentenced for a secrecy offence to a fine or to imprisonment for at most one year. According to section 2 (secrecy violation), if, taking into consideration the significance of the act from the perspective of the protection of privacy or confidentiality or the other circumstances connected with the offence, the secrecy offence is of minor significance when assessed as a whole, the perpetrator shall be sentenced for a secrecy

violation to a fine. A person who is guilty of such a violation of secrecy obligation referred to in section 1 that is, under separate provisions, punishable as a secrecy violation shall also be sentenced for a secrecy violation.

Here you can upload any file(s) in support of your answer

i. [does your national legal framework provide for free legal aid to child victims of sexual abuse by someone in a recognised position of trust, authority or influence under the same or more lenient conditions as that available to adults?](#)^[63] Please provide details.

[63] *Ibid.*, Recommendation 50

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.i Yes)

In general, legal assistance may be provided at the expense of the state to persons who need expert assistance in a legal matter and who are unable to meet the costs of proceedings as a result of their economic situation (chapter 1, section 1 of the Legal Aid Act). In most cases child victims of sexual offences would be entitled to have free legal assistance already based on this legislation. However, as mentioned in, e.g., the reply to question 15 b, the Criminal Procedure Act includes a provision on appointing a legal adviser to a victim of certain types of crimes. The court may appoint trial counsel for an injured party for the criminal investigation and, when the injured person has claims in a case in which the prosecutor has brought charges, for the criminal proceedings in a case concerning e.g. a sexual offence referred to in chapter 20 of the Criminal Code, unless there is a special reason for deeming this unnecessary (chapter 2, section 1 a of the Criminal Procedure Act). The legal adviser is appointed regardless of the income of the victim, and the fees and expenses are paid by the state (chapter 2, section 10 of the Criminal Procedure Act). However, these provisions apply to all victims of sexual offences, so they are not specific to child victims.

Moreover, according to chapter 2, section 2 of the Criminal Procedure Act, a person appointed under section 1 or 1(a) as public defender or trial counsel for the injured party shall be a public legal aid attorney or an advocate. If there is no suitable public legal aid attorney or advocate available or there is another special reason for this, also a licensed legal counsel referred to in the Licensed Legal Counsel Act may be appointed as public defender or trial counsel. The person to be appointed as public defender or trial counsel is to be reserved an opportunity to be heard on the appointment. When the suspect or the injured party has himself or herself proposed a person meeting the qualifications as public defender or trial counsel, the said person shall be appointed unless there are special reasons to the contrary. The following may not be appointed as public defender: a person who has advised the suspect in a matter connected with the offence under investigation; a person who is suspected, charged with or convicted of an offence which is conducive to reducing his or her credibility as a public defender; or a person who is otherwise disqualified from serving as a public defender.

Here you can upload any file(s) in support of your answer

j. [does your national legal framework grant to child victims of sexual abuse by someone in a recognised position of trust, authority or influence the right to be represented in their own name by a lawyer trained in the relevant matters?](#)^[64] Please provide details.

[64] *Ibid.*, Recommendation 51

- Yes
 No

Please provide information in support of your answer, if possible referring to specific legal provisions and their exact wording (20.j Yes)

A party has the right in a criminal investigation to retain counsel of his or her own choice. The head investigator or the public prosecutor shall submit a request to the court for the appointment of trial counsel for the injured person if there is reason for this on the basis of the provisions of chapter 2 of the Criminal Procedure Act (chapter 4, section 10 of the Criminal Investigation Act). As mentioned, e.g., in replies to questions 15 b and 20 i, the court may appoint trial counsel for an injured party for the criminal investigation and, when the injured person has claims in a case in which the prosecutor has brought charges, for the criminal proceedings in a case concerning e.g. a sexual offence referred to in chapter 20 of the Criminal Code, unless there is a special reason for deeming this unnecessary (chapter 2, section 1 a of the Criminal Procedure Act). In practice, this means that a counsel should be appointed in all suspected sexual offences against a child as soon as the pre-trial investigation begins. The fees and compensations are paid from State funds to the counsel (chapter 2, section 10 of the Criminal Procedure Act).

As mentioned, a person appointed under section 1(a) as public defender or trial counsel for the injured party shall be a public legal aid attorney or an advocate. If there is no suitable public legal aid attorney or advocate available or there is another special reason for this, also a licensed legal counsel referred to in the Licensed Legal Counsel Act may be appointed as public defender or trial counsel. The person to be appointed as public defender or trial counsel is to be reserved an opportunity to be heard on the appointment (chapter 2, section 2 of the Criminal Procedure Act). The counsel must possess the professional skills required for the task. In criminal matters concerning children, this means that the counsel must have sufficient knowledge of criminal matters and children in criminal proceedings.

Here you can upload any file(s) in support of your answer

k. [what assistance, if any, do you provide to child victims of sexual abuse by someone in a recognised position of trust, authority or influence, once a criminal justice decision has been taken?](#)^[65]

[65] *Ibid.*, Recommendation 52

Persons employed by, or in positions of trust for e.g. social and health-care services and child day care, education services, youth services, the police service, social welfare and health care service providers and education or training provider as well as persons working in a principal/contractor relationship or as independent professionals, and all health care professionals have a duty to notify the wellbeing services county without delay and notwithstanding confidentiality provisions if, in the course of their work, they discover that there is a child for whom it is necessary to investigate the need for child welfare on account of the child's need for care, circumstances endangering the child's development, or the child's behavior (chapter 5, section 25 of the Child Welfare Act). It is stated in the instructions of the National Police Board (POL-2019-34669, p. 15) that when it is suspected that a child has been a victim of a sexual offence and a

family member or another close person is suspected of having committed such an act, a child welfare notification is always submitted.

Child welfare must be of such a nature that it guarantees the assistance and support needed by those children, young people and their families who require such services. Wellbeing services county will be in charge of child protection and aftercare for children in need of protection (chapter 3, section 11 of the Child Welfare Act). The health care unit of the wellbeing services county must provide expert assistance in child-specific and family-specific child welfare and, where necessary, arrange an examination of the child and healthcare and therapy services for the child. Services needed by children in connection with the investigation of suspected sexual abuse or assault must be arranged such that they can be provided urgently (chapter 3, section 15 of the Child Welfare Act).

See also reply to question 12.

Moreover, under national legislation courts are obliged to notify the competent authority of its decision to impose a fine, imprisonment or other punishment for an offence committed by the health care or social welfare professional in his or her professional activity. When courts' decision affects a health care professional's/social welfare professional's right to practice his/her profession/the right to use a professional title, the competent authority makes a decision on the restriction, prohibition or withdrawal of the right to practice a profession/right to use a professional title.

If client or patient safety so requires, the competent authority may also temporarily restrict a professional's right to practice a profession when considering the appropriateness of the professional's professional activity or the ability of the professional to practice his or her profession or on the basis of an offence committed in the professional activity. In this way, the professional can immediately be prevented from practicing the profession/using the professional title before a final decision can be made on the matter. c) The employer is the primary body supervising the activities of its unit/organisation and the activities of its employees. The employer has the opportunity to organise and instruct its activities, monitor and assess them in real time and, if necessary, immediately intervene in shortcomings and ensure client and patient safety in good time. Regional and national authorities also carry out statutory organisational monitoring that can be used to intervene in the activities of healthcare and social welfare organisations.

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